

United States District Court
for the District of Utah

Petition and Order for Warrant for Offender Under Supervision

Name of Offender: **Abel Suazo**

Docket Number: **2:99-CR-00028-010-DB**

Name of Sentencing Judicial Officer: **Honorable Dee V. Benson**

Date of Original Sentence: **February 4, 2000**

Original Offense: **Distribution of Methamphetamine**

Original Sentence: **37 Months BOP Custody/60 Months Supervised Release**

Type of Supervision: **Supervised Release**

Supervision Began: **March 8, 2002**

PETITIONING THE COURT

☒ To issue a warrant and Address Unknown
toll the supervision term

CAUSE

The probation officer believes that the offender has violated the conditions of supervision as follows:

Allegation No. 1: The defendant has absconded supervision, and his current whereabouts are unknown.

I declare under penalty of perjury that the foregoing is true and correct

Jody Phillips Gerber

Jody Phillips Gerber
U.S. Probation Officer
Date: February 14, 2005

THE COURT ORDERS:

- ☒ The issuance of a warrant
and tolling of the supervision term
- ☐ The issuance of a summons
- ☐ No action
- ☐ Other

Dee Benson

Honorable Dee V. Benson
Chief United States District Judge

Date: 2/14/05

352

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:99-cr-00028

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Mr. Richard D McKelvie, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Clark A Harms, Esq.
SALT LAKE COUNTY DISTRICT ATTORNEY'S OFFICE
111 E BROADWAY STE 400
SALT LAKE CITY, UT 84111
EMAIL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 16 P 3:14
DISTRICT CLERK
BY: DEPUTY CLERK

UNITED STATES OF AMERICA

Plaintiff,

vs.

Rian Loyd Wilson

Defendant.

TAXATION OF COSTS

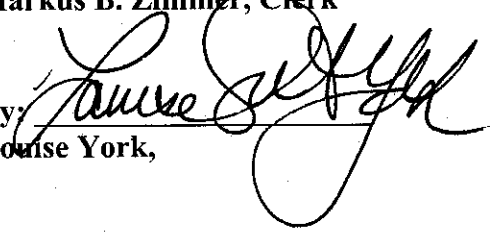
Case No. 2:00cr 246 DON

Judgment was entered in favor of the plaintiff and against the defendant on February 23, 2001. Plaintiff has filed a bill of costs associated with the collection of the judgment. Defendant has filed no objection to the costs requested.

Additional costs are taxed in the amount of \$53.25 and are included in the judgment.

Dated: February 16, 2005

Markus B. Zimmer, Clerk

By: 
Louise York,

57

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:00-cr-00246

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Mr. Paul F Graf, Esq.
UTAH ATTORNEY GENERAL'S OFFICE
192 E 200 N STE 200
ST GEORGE, UT 84770
EMAIL

Christopher B. Chaney, Esq.
US DEPT OF INTERIOR SOLICITORS OFFICE
MAIL STOP 6456
1849 C ST NW
WASHINGTON, DC 20240
EMAIL

Ms. Jan N. Allred, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 16 P 11:14

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH NORTHERN DIVISION

UNITED STATES OF AMERICA

Plaintiff,

vs.

Warren S. Willette

Defendant.

TAXATION OF COSTS

Case No. 1:93cr13-006 DS

Judgment was entered in favor of the plaintiff and against the defendant on May 10, 1994. Plaintiff has filed a bill of costs associated with the collection of the judgment. Defendant has filed no objection to the costs requested.

Additional costs are taxed in the amount of \$153.75 and are included in the judgment.

Dated: February 16, 2005

Markus B. Zimmer, Clerk

By:

Louise York,

1039

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:93-cr-00013

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Mr. Stanley H Olsen, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Ms. Jan N. Allred, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Jack B. Patrick, Esq.
US DEPARTMENT OF JUSTICE
CRIMINAL DIVISION-FRAUD SECTION
1400 NEW YORK AVE NW
3RD FLOOR
WASHINGTON, DC 20005
EMAIL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 16 P 4:15
BY: [Signature]
SECURITY CLERK

UNITED STATES OF AMERICA

Plaintiff,

vs.

Harold L. Newman

Defendant.

TAXATION OF COSTS

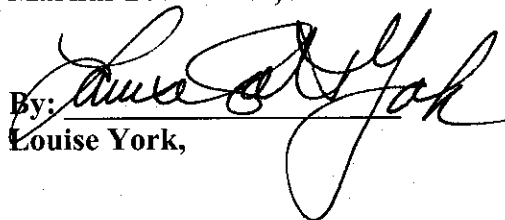
Case No. 2:00 cv 761 JTG

Judgment was entered in favor of the plaintiff and against the defendant on December 5, 2000. Plaintiff has filed a bill of costs associated with the collection of the judgment. Defendant has filed no objection to the costs requested.

Additional costs are taxed in the amount of \$95.26 and are included in the judgment.

Dated: February 16, 2005

Markus B. Zimmer, Clerk

By: 
Louise York,

30

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:00-cv-00761

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Acumen Fiscal Agent
ATTN: LAURA HOLMAN, PAYROLL
1561 N GRAND VIEW LN
PROVO, UT 84604

Harold L. Newman
1447 S 200 E
SALT LAKE CITY, UT 84115

Ms. Jan N. Allred, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

2005 FEB 16 A 9:51

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF STAFF
WASHINGTON, D. C. 20315

BY: _____
DEPUTY CLERK

44 FEB 14 2005

OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS

Barry N. Johnson (6255)
David M. Kono (8770)
BENNETT TUELLER JOHNSON & DEERE
Attorneys for Defendant
3865 South Wasatch Blvd., Suite 300
Salt Lake City, Utah 84109
Telephone: (801) 272-5600

* * * * *

Defendant.

Judge Bruce S. Jenkins

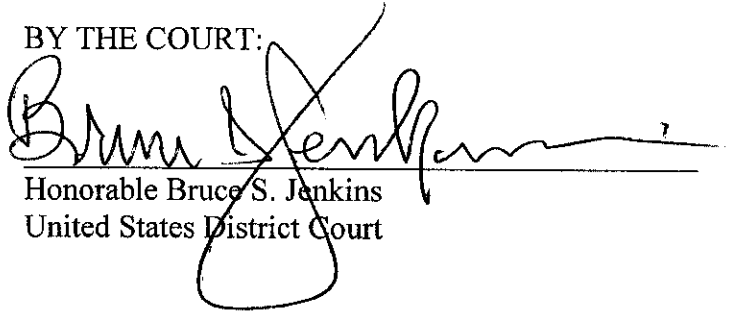
* * * * *

Based upon the parties' Stipulated Motion for Order Enlarging Time for Filing an Answer to Amended Complaint and for good cause appearing, IT IS HEREBY ORDERED that the parties' Stipulated Motion is GRANTED and Defendant Merrill Iron & Steel, Inc. is afforded until March 7, 2005 to file an answer to Cicero's Amended Complaint.

30

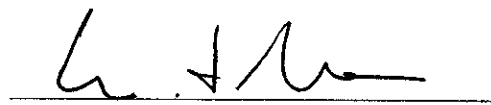
DATED this 5 day of February, 2005.

BY THE COURT:



Honorable Bruce S. Jenkins
United States District Court

Approved as to form:



Conrad H. Johansen
Counsel for Plaintiff Cicero Engineering Services, Inc.

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00540

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Conrad H. Johansen, Esq.
OLSEN SKOUBYE & NIELSON
CENTENNIAL PLAZA STE 300
45 W 10000 S STE 300
SANDY, UT 84070
EMAIL

Barry N. Johnson, Esq.
BENNETT TUELLER JOHNSON & DEERE LLC
3865 S WASATCH BLVD STE 300
SALT LAKE CITY, UT 84109
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 16 P 1:40

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

RECEIVED CLERK

FEB 14 2005

U.S. DISTRICT COURT

Prepared & Submitted By:

Blake D. Miller (4090)
Joel T. Zenger (8926)
MILLER GUYMON, P.C.
165 South Regent Street
Salt Lake City, Utah 84111
Telephone: 801.363.5600
Facsimile: 801.363.5601

James E. Magleby (7247)
Jason A. McNeill (9711)
MAGLEBY & GREENWOOD, P.C.
170 South Main Street, Suite 350
Salt Lake City, Utah 84101
Telephone: 801.359.9000
Facsimile: 801.359.9011

RECEIVED

FEB 14 2005

OFFICE OF JUDGE
DAVID SAM

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

**KLEIN-BECKER usa, LLC, a Utah
limited liability company,**

Plaintiff,

vs.

**PRODUCT QUEST MANUFACTURING,
INC., a Florida corporation, and
VITALSCIENCE, CORP., a Canadian
corporation,**

Defendants.

**ORDER GRANTING PLAINTIFF'S EX
PARTE MOTION TO FILE
OVERLENGTH REPLY MEMORANDUM
IN SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION**

Case No. 2:04CV1146 DS

Honorable David Sam


Based upon the Plaintiff's Ex Parte Motion for Leave to File Overlength Reply
Memorandum in Support of Plaintiff's Motion for Preliminary Injunction, and good cause
appearing thereon,

44

IT IS HEREBY ORDERED that Plaintiff Klein-Becker usa LLC is granted leave to file an over-length Reply Memorandum in Support of Plaintiff's Motion for Preliminary Injunction, not to exceed 23 pages, excluding table of contents and exhibits.

^{16th 06}
DATED this 14th day of February 2005.

UNITED STATES DISTRICT COURT



Honorable David Sam

CERTIFICATE OF SERVICE


I hereby certify that I am employed by the law firm of MILLER GUYMON, P.C., 165 South Regent Street, Salt Lake City, Utah 84111, and that pursuant to Rule 5(b), Federal Rules of Civil Procedure, a true and correct copy of the foregoing proposed **ORDER GRANTING PLAINTIFF'S EX PARTE MOTION TO FILE OVERLENGTH REPLY MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION** was delivered to the following this 14th day of February 2005 by:

- ☒ Hand Delivery and email where noted
- ☐ Facsimile
- ☐ Depositing the same in the U.S. Mail, postage prepaid
- ☐ Federal Express
- ☐ Certified Mail, Receipt No. _____, return receipt requested

Todd E. Zenger
KIRTON & MCCONKIE
60 East South Temple, Suite 1800
Salt Lake City, UT 84111
Attorneys for Defendant VitalScience

Robert A. Thorup
RAY QUINNEY & NEBEKER
36 South State Street, Suite 1400
Salt Lake City, UT 84111
Attorneys for Defendant Product Quest

Richard S. Mitchell (via email --
RMitchell@ralaw.com)
James C. Scott
ROETZEL & ANDRESS, LPA
1375 East Ninth Street
One Cleveland Center, Ninth Floor
Cleveland, OH 44114
Attorneys for Defendant Product Quest



United States District Court
for the
District of Utah
February 17, 2005

kvs

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01146

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Blake D. Miller, Esq.
MILLER GUYMON PC
165 S REGENT ST
SALT LAKE CITY, UT 84111
EMAIL

Jennifer E. Simpson, Esq.
FELDMAN GALE PA
201 S BISCAYNE BLVD STE 1920
MIAMI, FL 33131

Lawrence S. Gordon, Esq.
FELDMAN GALE PA
201 S BISCAYNE BLVD STE 1920
MIAMI, FL 33131

James A. Gale, Esq.
FELDMAN GALE PA
201 S BISCAYNE BLVD STE 1920
MIAMI, FL 33131
EMAIL

A. Robert Thorup, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

Richard S. Mitchell, Esq.
ROETZELL & ANDRESS LPA
1375 E NINTH ST 9TH FL
CLEVELAND, OH 44114

James C. Scott, Esq.
ROETZELL & ANDRESS LPA
1375 E NINTH ST 9TH FL
CLEVELAND, OH 44114

Mr. Todd E Zenger, Esq.

KIRTON & MCCONKIE
60 E S TEMPLE STE 1800
SALT LAKE CITY, UT 84111-1004
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 16 P 1:40

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

RONALD J. YENGICH (#3580)
YENGICH, RICH & XAIZ
Attorneys for Defendant
175 East 400 South, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 355-0320

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
	)	ORDER CONTINUING
Plaintiff,	)	JURY TRIAL
)	
v.)	
)	
	)	Case No. 03 CR 315
ROBERT DEAN COX,)	
)	
	)	Honorable David Sam
Defendant.)	

Based upon the motion and stipulation of counsel and for good cause shown;

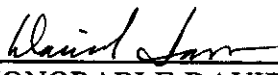
THIS COURT HEREBY FINDS that the ends of justice served in granting a continuance in the above-entitled matter outweigh the best interests of the public and the defendants in a speedy trial. The Court further finds that the parties have, despite the exercise, of due diligence, not yet completed plea negotiations.

Pursuant to Title 18, § 3161(8)(A) and (B)(iv) of the Speedy Trial Act, the Jury Trial date in this matter, currently set for February 16th and 17th, 2005, is hereby continued. The period of delay resulting from this continuance is hereby ordered excludable pursuant to the Act.

IT IS FURTHER ORDERED that the Jury Trial be continued to the 25th and 26th day of May, 2005, at the hour of 8:30 a.m, before Judge Sam.

SIGNED BY MY HAND this 16th day of February, 2005.

BY THE COURT:

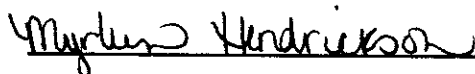


HONORABLE DAVID SAM
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that I mailed/delivered a true and correct copy of the foregoing Order Continuing Jury Trial , postage prepaid, this 9th day of February, 2005, to the following:

Richard McKelvie
Assistant U. S. Attorney
185 South State Street #400
Salt Lake City, Utah 84111



United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cr-00315

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Ms. Mary C. Corporon, Esq.
CORPORON & WILLIAMS PC
808 E SOUTH TEMPLE
SALT LAKE CITY, UT 84102
EMAIL

Mr. Ronald J. Yengich, Esq.
YENGICH RICH & XAIZ
175 E 400 S STE 400
SALT LAKE CITY, UT 84111
EMAIL

Mr. Richard D McKelvie, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

STEVEN B. KILLPACK, Federal Defender (#1808)
WENDY M. LEWIS, Assistant Federal Defender (#5993)
Utah Federal Defender Office
46 West 300 South, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010

RECEIVED
FEB 14 2005
OFFICE OF JUDGE
DAVID SAM

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 16 P 1:40
RECEIVED CLERK
FEB 14 2005
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

DANIEL CANO,

Defendant.

ORDER TO CONTINUE
JURY TRIAL


Case No. 2:03CR-903DS

Based on the motion to continue trial filed by defendant in the above-entitled case, and good cause appearing,

It is hereby ORDERED that the trial previously scheduled for February, 15, 2005, is hereby continued to this 15th day of March, 2005, at 8:30 a.m. Pursuant to 18 U.S.C. § 3161(h), the court finds the ends of justice served by such a continuance outweigh the best interests of the public and the defendant to a speedy trial. The time of the delay shall constitute excludable time under the Speedy Trial Act.

Dated this 16th day of February, 2005.

BY THE COURT:


HONORABLE DAVID SAM
United States District Court Judge

18

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cr-00903

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Robert C Lunnan, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Wendy M. Lewis, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

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2005 FEB 15 FEB 16 2005

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FEB - 9 2005

JANET HUGIE SMITH (A3001)

ROBERT O. RICE (A6639)

JONATHAN G. PAPPASIDERIS (A9860)

RAY QUINNEY & NEBEKER

36 South State Street, Suite 1400

P.O. Box 45385

Salt Lake City, Utah 84145-0385

Telephone: (801) 532-1500

DISTRICT OF UTAH OF JUDGE
DAVID SAM

U.S. DISTRICT COURT

Attorneys for Defendants Union Pacific Corporation and Union Pacific Railroad Company

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

RANEE TADEMY,

Plaintiff,

v.

UNION PACIFIC CORPORATION (a Utah
Corporation), and UNION PACIFIC
RAILROAD COMPANY (a Delaware
Corporation),

Defendants.

**ORDER REGARDING MOTION TO
FILE DOCUMENTS UNDER SEAL**

Case No.: 2:04-CV-00670 DS

Judge: David Sam

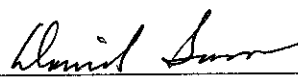
Pursuant to DUCivR 5-2(d) and the Order Regarding Protection of Confidentiality of Information dated December 13, 2004, and good cause therein showing, the Court hereby orders that Defendants shall be entitled to file documents subject to protective order under seal, including Exhibits A-J and M in Defendants' Memorandum in Opposition to Plaintiff's Motion for Protective Order and Exhibits A and B in Defendants' Memorandum in Support of Motion

44

for Protective Order. The Clerk is hereby directed to remove the aforementioned exhibits from publicly-available files and treat all aforementioned exhibits as sealed.

DATED this 16th day of February, 2005.

BY THE COURT



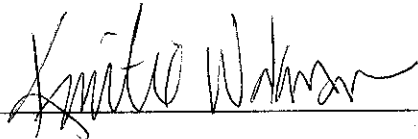
Judge David Sam

806280

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **ORDER REGARDING
MOTION TO FILE DOCUMENTS UNDER SEAL** was sent via hand delivery on this 9th day
of February, 2005 to the following:

Lauren I. Scholnick
Erika Birch
Strindberg Scholnick & Chamness, LLC
44 Exchange Place, 2nd Floor
Salt Lake City, Utah 84111



806280

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00670

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Lauren I. Scholnick, Esq.
STRINDBERG SCHOLNICK & CHAMNESS LLC
44 EXCHANGE PL 2ND FL
SALT LAKE CITY, UT 84111
EMAIL

Ms. Janet Hugie Smith, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

John L. Young (3591)
Jeremy M. Hoffman (5290)
YOUNG, ADAMS & HOFFMAN, LLP
170 South Main Street, Suite 1125
Salt Lake City, Utah 84101
Telephone: (801) 359-1900
Facsimile: (801) 359-1980
Attorneys for Defendant CCI Mechanical, Inc.

FILED
CLERK, U.S. DISTRICT COURT
FEB 15 P 4:40
FEB 11 2005
DISTRICT COURT OF UTAH
BY: DAVID SAM
DEPUTY CLERK

RECEIVED CLERK
FEB 10 2005
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SAFEWAY, INC.,

Plaintiff,

vs.

CONSONUS, INC., CCI MECHANICAL,
INC., ALARM CONTROL COMPANY,
UNION POINTE CONSTRUCTION
CORPORATION, EHNINGER FETZER
THOLEN ARCHITECTS, INC., COLVIN
ENGINEERING ASSOCIATES, INC.,
DUNN ASSOCIATES, INC., and ANSUL
INCORPORATED,

Defendants.

ALARM CONTROL COMPANY,
EHNINGER FETZER THOLEN
ARCHITECTS, INC., COLVIN
ENGINEERING ASSOCIATES, INC.,
and DUNN ASSOCIATES, INC.,

Third-Party Plaintiffs,

vs.

NCR CORPORATION,

Third-Party Defendant.

**ORDER GRANTING EXTENSION
OF TIME TO FILE CCI
MECHANICAL, INC.'S REPLY
MEMORANDUM IN SUPPORT OF
MOTION FOR SUMMARY
JUDGMENT**

Case No. 2:02-CV-1216

Honorable David Sam

517

Based upon the Stipulation between the plaintiff, Safeway, Inc., and defendant, CCI Mechanical, Inc., and good cause appearing,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that CCI Mechanical, Inc. has to and including February 16, 2005 within which to file its reply memorandum in support of CCI Mechanical, Inc.'s motion for summary judgment against Safeway, Inc.

DATED this 16th day of February, 2005.

BY THE COURT:

By David Sam
Judge David Sam

Approved as to form:

DEWSNUP KING & OLSEN

By [Signature]
Attorneys for Plaintiff, Safeway, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 10 day of February, 2005, I caused to be mailed, postage prepaid, a true and correct copy of the foregoing Order to:

Douglas H. Patton, Esq.
Edward B. Havas, Esq.
Dewsnup, King & Olsen
36 South State Street, Suite 2020
Salt Lake City, Utah 84111

Stephen J. Trayner, Esq.
Strong & Hanni
3 Triad Center, Suite 500
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P. Douglas Folk, Esq.
Folk & Associates, P.C.
One Columbus Plaza, Suite 600
3636 North Central Avenue
Phoenix, Arizona 85012-8503

Greggory J. Savage, Esq.
Holme Roberts & Owen LLP
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Salt Lake City, Utah 84111

John N. Braithwaite, Esq.
David N. Sonnenreich, Esq.
Plant, Christensen & Kanell
136 East South Temple, Suite 1700
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Justin T. Toth, Esq.
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David M. Connors, Esq.
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John J. Haggerty, Esq.
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Cleveland, Ohio 44114

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Kipp & Christian, P.C.
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Fourth Floor
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Alan C. Bradshaw, Esq.
Manning Curtis Bradshaw & Bednar, LLC
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Salt Lake City, Utah 84111

J. Stan Sexton, Esq.
Shook Hardy & Bacon, LLP
2555 Grand Boulevard
Kansas City, Missouri 64108-2613



United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-01216

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. John N Braithwaite, Esq.
PLANT CHRISTENSEN & KANELL
136 E S TEMPLE STE 1700
SALT LAKE CITY, UT 84111-2970
JFAX 9,5319747

Mr. John L Young, Esq.
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170 S MAIN ST STE 1125
SALT LAKE CITY, UT 84101-1605
EMAIL

Blaine J. Benard, Esq.
HOLME ROBERTS & OWEN LLP
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SALT LAKE CITY, UT 84111-2263
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Benjamin L. Hodgson, Esq.
FOLK & ASSOCIATES
ONE COLUMBUS PLAZA STE 600
3636 N CENTRAL AVE
PHOENIX, AZ 85012-8503

Christopher D.C. Hossack, Esq.
FOLK & ASSOCIATES

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Mr. Stephen J Trayner, Esq.
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**MANNING CURTIS BRADSHAW
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Telephone: (816) 474-6550
Facsimile: (816) 421-5547

Attorneys for Ansul Incorporated

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

SAFEWAY, INC., Plaintiff, v. CONSONUS, INC., et al., Defendants.	ORDER GRANTING ANSUL INC.'S MOTION TO FILE OVERLENGTH MEMORANDUM Civil No. 2:02-CV-1216 Judge David Sam
--	--

WHEREAS the Court has reviewed Defendant Ansul, Inc.'s ("Ansul") Motion and Memorandum to File Overlength Memorandum and finding good cause that justifies the need for an extension of the specified page limitations, enters the following ORDER:

5/8

FILED
CLERK, U.S. DISTRICT COURT

RECEIVED CLERK
FEB 15 P 1:40

2005 FEB 11 P 5:32
DISTRICT OF UTAH

BY: _____
DEPUTY CLERK
U.S. DISTRICT COURT
DISTRICT OF UTAH

RECEIVED

FEB 14 2005

OFFICE OF JUDGE
DAVID SAM

Ansul's Motion is hereby GRANTED and Ansul is given leave of Court to file an overlength Reply Memorandum in Support of Ansul's Motion for Summary Judgment Seeking Dismissal of the Claims of Consonus, Inc., not to exceed 16 pages of argument.

DATED this 16th day of February, 2005.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "David Sam", is written over a horizontal line.

David Sam
District Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **ORDER GRANTING ANSUL INC.'S MOTION TO FILE OVERLENGTH MEMORANDUM** was mailed in the U.S. Mail, postage prepaid, this 11th day of February, 2005, addressed as follows:

Douglas H. Patton
Edward B. Havas
Dewsnup, King & Olsen
2020 Beneficial Life Tower
36 South State Street
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Attorneys for Safeway, Inc.

Stephen J. Trayner
Robert L. Janicki
Peter C. Schofield
Strong & Hanni
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Salt Lake City, UT 84180
Attorneys for Union Pointe Construction Corporation

John N. Braithwaite
David N. Sonnenreich
Plant Christensen & Kanell
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Salt Lake City, UT 84111
Attorneys for Alarm Control Company

Justin T. Toth
Jacquelyn D. Rogers
Ray, Quinney & Nebeker
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Salt Lake City, UT 84145-0385
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Salt Lake City, UT 84101
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P. Douglas Folk
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Cleveland, OH 44114
Attorneys for NCR Corporation

Forene Nordman

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-01216

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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FOLK & ASSOCIATES

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Mr. Alan C. Bradshaw, Esq.
MANNING CURTIS BRADSHAW & BEDNAR LLC
THIRD FLOOR NEWHOUSE BLDG
10 EXCHANGE PL
SALT LAKE CITY, UT 84111
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

FEB 16 P 1:40

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

PAUL M. WARNER, United States Attorney, (#3389)
VERNON G STEJSKAL, Special Assistant United States Attorney (# 8434)
Attorneys for the United States of America
348 East South Temple
Salt Lake City, Utah 84111
Telephone: (801) 524-4156

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MIGUEL VASQUEZ-AVALOS and
FILIBERTO VALDOVINOS

Defendants.

**ORDER STRIKING TRIAL DATES AND
TOLLING TIME UNDER THE SPEEDY
TRIAL ACT**

Case No. 2:04CR00708 JTG

Judge J. Thomas Greene

The parties appeared before the Court for a Scheduling Conference on February 3, 2005.

IT IS HEREBY ORDERED that the trial dates of March 14-16, 2005, previously set in this matter are hereby stricken based upon each Defendants' motion for a competency evaluation. A new trial date will be set after the results of those evaluations are received by the Court and counsel.

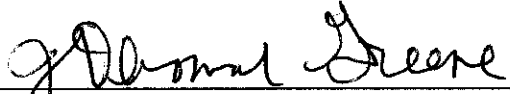
IT IS FURTHER ORDERED, that all time between the March 14, 2005 trial setting and a yet to be determined future trial setting is tolled under the Speedy Trial Act pursuant to 18 U.S.C. §3161(h)(1)(F).

56

The Court specifically finds that the ends of justice will be served by the granting of such continuance and that such action outweighs the best interest of the public and defendant in a speedy trial.

DATED this 16th day of February, 2005

BY THE COURT:



JUDGE J. THOMAS GREENE
UNITED STATES DISTRICT COURT

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00708

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Vernon G. Stejskal, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
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Mr. James D. Garrett, Esq.
2091 E 1300 S STE 201
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Bel-Ami J. de Montreux, Esq.
180 S 300 W #350
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
/
EMAIL

US Probation
DISTRICT OF UTAH
/
EMAIL

PAUL M. WARNER, United States Attorney (No. 3389)
ROBERT E. Special Assistant United States Attorney (No. 6036)
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 524-5682

FILED
CLERK, U.S. DISTRICT COURT
RECEIVED CLERK
FEB 15 2005
DISTRICT OF UTAH
U.S. DISTRICT COURT
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Case No. 1:04 CR 00180 JTG
Plaintiff,	:	PRETRIAL ORDER
v.	:	
CARL MIKE SMITH,	:	JUDGE J. THOMAS GREENE
Defendant.	:	
	:	

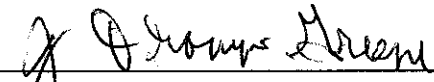
The above-entitled action came on for pretrial status conference on January 19, 2004 2004, before United States District Court Judge J. Thomas Greene. Defense counsel and Special Assistant United States Attorney were present. Based thereon, the following is entered:

1. A jury trial is set for three days, March 9-11, 2005, beginning at 9:30 a.m. It appears that the trial date is appropriate if the matter is tried.
2. The government has provided discovery and therefore any pre-trial motions are to be filed with the Court by no later than February 15, 2005.
3. Jury instructions, verdict forms and proposed voir dire are due March 1, 2005..

13

DATED this 16th day of February, 2005.

BY THE COURT:



J. THOMAS GREENE
United States District Judge

Certificate of Service

I hereby certify that I am an employee of the United States Attorney's Office and
that a copy of the foregoing PRETRIAL ORDER was faxed to the following on this
15th day of February 2005:

LYNN DONALDSON
Federal Defenders
46 West Broadway #110
Salt Lake City, Utah 84101
Fax: (801) 524-4060

A handwritten signature, possibly reading 'R', is written above a horizontal line.

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cr-00180

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Robert E. Steed, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Mr. L. Clark Donaldson, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

United States District Court
for the District of Utah

Petition and Order for Warrant for Offender Under Supervision

Name of Offender: **Moises Gallegos**

Docket Number: **2:03-CR-00802-001-TS**

Name of Sentencing Judicial Officer: **Ted Stewart, U.S. District Court Judge**

Date of Original Sentence: **July 12, 2004**

Original Offense: **Providing False Information in the Acquisition of a Firearm**

Original Sentence: **15 months BOP custody and 36 months supervised release**

Type of Supervision: **Supervised Release**

Supervision Began: **February 4, 2005**

PETITIONING THE COURT

☒ To issue a warrant to be placed as a
detainer and toll the supervision term

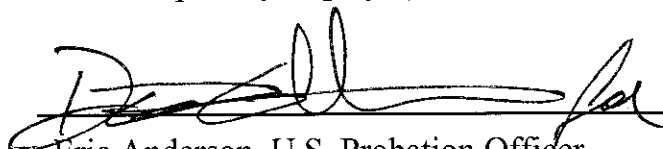
In custody:
Salt Lake Adult Detention Center

CAUSE

The probation officer believes that the offender has violated the conditions of supervision as follows:

Allegation No. 1: The defendant was arrested on February 11, 2005, for Solicitation of a Prostitute.

I declare under penalty of perjury that the foregoing is true and correct



Eric Anderson, U.S. Probation Officer

Date: February 15, 2005

THE COURT ORDERS:

☒ The issuance of a warrant to be placed as a
detainer and tolling of the supervision term

☐ No action

☐ Other


Ted Stewart
United States District Judge

Date: 2/16/05

38

jmr

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cr-00802

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Trina A Higgins, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 17 A 7:09

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

BY: CENTRAL DIVISION
DEPUTY CLERK

FILED

CLERK, U.S. DISTRICT COURT

February 16, 2005 (2:12pm)

DISTRICT OF UTAH

BANYAN PROPERTIES, ,

Plaintiff,

vs.

SIGNATURE DESTINATIONS CLUB,

Defendant.

ORDER OF REFERENCE

Civil No. 2:05-CV-00125 TS

IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(A) and the rules of this Court, the above entitled case is referred to Magistrate Judge David Nuffer. The magistrate judge is directed to hear and determine any nondispositive pretrial matters pending before the Court.

DATED this 16th day of February, 2005.

BY THE COURT:



TED STEWART
United States District Judge

2

jmr

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cv-00125

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

James D Gilson, Esq.
CALLISTER NEBEKER & MCCULLOUGH
10 E SOUTH TEMPLE STE 900
SALT LAKE CITY, UT 84133
EMAIL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FILED

2005 FEB 16 P 1:01

MICHAEL MUNSON,

Petitioner,

v.

HANK GALETKA,

Respondent.

Case No. 2:99-CV-981

O R D E R

DEPUTY CLERK

Petitioner, Michael Munson, moves for appointed counsel to help him in his quest for habeas corpus relief. See 28 U.S.C. § 2254 (2005).

Petitioner has no constitutional right to appointed counsel in a federal habeas corpus case. See *United States v. Lewis*, No. 97-3135-SAC, 91-10047-01-SAC, 1998 U.S. Dist. LEXIS 21998, at *8 (D. Kan. December 9, 1998). Moreover, because no evidentiary hearing is required here, Petitioner has no statutory right to counsel. See Rule 8(c), R. Governing § 2254 Cases in U.S. Dist. Courts. However, the Court may in its discretion appoint counsel when "the interests of justice so require" for a "financially eligible person" bringing a § 2254 petition. See 18 U.S.C. § 3006A(a)(2)(B) (2005).

The Court has reviewed the pleadings in this case and determines that justice does not require appointed counsel at this time. First, it is yet unclear that Petitioner has asserted any colorable claims. See *Lewis*, 1998 U.S. Dist. LEXIS 21998, at

ORIGINAL

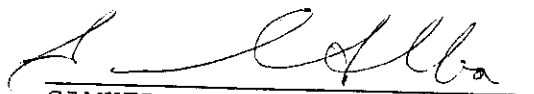
11

*10; *Oliver v. United States*, 961 F.2d 1339, 1343 (7th Cir. 1992). Second, Petitioner has shown "the ability to investigate the facts necessary for his issues and to articulate them in a meaningful fashion." *Lewis*, 1998 U.S. Dist. LEXIS 21998, at *10; *Oliver*, 961 F.2d at 1343. Finally, the issues in this case appear "straightforward and not so complex as to require counsel's assistance." *Lewis*, 1998 U.S. Dist. LEXIS 21998, at *10; *Oliver*, 961 F.2d at 1343. The Court thus denies for now Plaintiff's motions for appointed counsel.

IT IS HEREBY ORDERED that Petitioner's motion for appointed counsel is denied. (See File Entry # 4.) However, if it later appears that counsel may be needed or of specific help, the Court will appoint an attorney to appear on Petitioner's behalf.

DATED this 15th day of February, 2005.

BY THE COURT:



SAMUEL ALBA

United States Chief Magistrate Judge

United States District Court
for the
District of Utah
February 17, 2005

kpf

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:99-cv-00981

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Criminal Appeals, Esq.
CRIMINAL APPEALS
160 E 300 S SIXTH FLOOR
PO BOX 140854
SALT LAKE CITY, UT 84114-0854
JFAX 9,3660167

Christopher D. Ballard, Esq.
UTAH ATTORNEY GENERAL'S OFFICE
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Michael Munson
UTAH STATE PRISON
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DRAPER, UT 84020

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 16 P 4:45

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

BY: DEPUTY CLERK

UNITED STATES OF AMERICA

Plaintiff,

vs.

BRANDON M. WYATT

Defendant.

ORDER DENYING MOTION TO
EXTEND SELF-SURRENDER DATE


Case No. 2:02-CR-00313PGC

The court has carefully reviewed the motion to extend the self-surrender date. Defense counsel has skillfully argued the case for her client and left no stone unturned in her motion. Nonetheless, the court is unpersuaded. The court denies the motion to extend the self-surrender date, finding no good cause having been shown. The court will, however, forward the medical materials it has received to the Bureau of Prisons for its consideration.

SO ORDERED.

DATED this 16th day of February, 2005.

BY THE COURT:



Paul G. Cassell
United States District Judge

62

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cr-00313

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

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EMAIL

Mr. Stanley H Olsen, Esq.
US ATTORNEY'S OFFICE

,
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Scott Keith Wilson, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
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FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 16 A 9:54
DEPUTY CLERK

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION BY:

UNITED STATES OF AMERICA

Plaintiff(s),

vs.

JAMES K. BOND

Defendant(s),

PRETRIAL ORDER PURSUANT
TO RULE 17.1 F.R.Cr.P.

Case No. 2:05-CR-20 TC

The above-entitled action came on for pretrial conference February 8, 2005, before Samuel Alba, United States Magistrate Judge. Defense counsel and the Assistant United States Attorney were present. Based thereon the following is entered:

1. A jury trial in this matter is set for 4/19/05, (4 days) at 8:30 am. It appears the trial date is appropriate if the matter is to be tried. Proposed instructions are to be delivered to Judge Tena Campbell by 4/18/05 along with any proposed voir dire questions.

2. The government has an open file policy re: discovery.

Yes X No

The government shall provide defense counsel with a copy of the defendant's criminal history. Defense counsel shall not permit

a

further dissemination of the document.

3. Pretrial motions are to be filed by: 3/11/05 at 5:00 p.m.

4. It is unknown if this case will be resolved by a negotiated plea of some kind. If so, plea negotiations should be completed by 4/5/05. If negotiations are not completed for a plea by the date set, the case will be tried.

5. Issues as to witnesses do not exist in this matter, but defense counsel will make arrangements for subpoenas, if necessary, as early as possible to allow timely service.

6. Defendant's release or detention status: RELEASED.

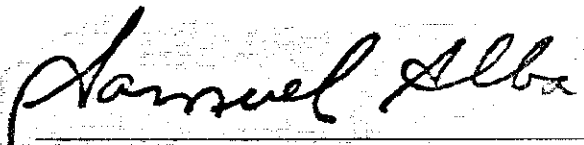
7. All exhibits will be premarked before Judge Tena Campbell's clerk before trial.

8. Other order and directions are:

9. Interpreter Needed: Yes ☐ No ☒ Language _____

DATED this 8th day of February, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Samuel Alba", is written over a horizontal line.

Samuel Alba
Chief Magistrate Judge

alt

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cr-00020

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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US ATTORNEY'S OFFICE
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5681 S REDWOOD RD #23
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EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

United States District Court District of Utah

FILED
CLERK U.S. DISTRICT COURT
2005 FEB 16 P 3:10
DISTRICT OF UTAH
DEPUTY CLERK

UNITED STATES OF AMERICA

vs.

Edward Craig Poole

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: **2:04-CR-00207-001-TC**

Plaintiff Attorney: **Vernon Stejskal, SAUSA**

Defendant Attorney: **Paul Grant, Esq.**

Atty: CJA ___ Ret ☒ FPD ___

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: **11429-081**

Defendant's Residence Address: _____

Country _____

02/15/2005

Date of Imposition of Sentence

Defendant's Mailing Address: _____

same

Country _____

THE DEFENDANT:

☒ pleaded guilty to count(s) _____

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____

COP **12/09/2004** Verdict _____

1, 3 & 10 of indictment

Title & Section

21 USC § 841(a)(1);

21 USC § 846

Nature of Offense

Conspiracy to Manufacture Methamphetamine

Count

Number(s)

1

21 USC 841(c)(2)

Possession of a List II Chemical/Iodine

3

18 USC 922(g)(3)

Possession of a Firearm

10

Entered on docket

2-17-05 by:

[Signature]
Deputy Clerk

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) **2,7,8 & 9 of indictment** (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

84 months

Upon release from confinement, the defendant shall be placed on supervised release for a term of

36 months

☐ The defendant is placed on Probation for a period of _____

[Handwritten initials]

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant will submit to drug/alcohol testing as directed by the probation office, and pay a one-time \$115 fee to partially defer the costs of collection and testing. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment under a co-payment plan as directed by the USPO.
2. The defendant shall submit his person, residence, office, or vehicle to a search, conducted by a USPO at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release; failure to submit to a search may be grounds for revocation; the defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
3. The defendant shall not possess or consume alcohol.
4. The defendant shall submit to the collection of a DNA sample at the direction of the US Bureau of Prisons or the USPO.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No fine imposed.

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), it is ordered that:
- ☐ The interest requirement is waived.
- ☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
Drug Enforcement Administration Denver Division Office 115 Inverness Drive East Englewood, Colorado 80112	\$3,685.54	\$3,685.54

Totals: \$ 3,685.54 \$ 3,685.54

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

- ☒ Restitution is payable as follows:
- ☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
jointly and severally, and shall be payable at a minimum rate of \$105 per month upon release from incarceration.
- ☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).
- ☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 300.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

RECOMMENDATION

☒ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in the facility in Florence, Colorado and that he participate in the Intensive Drug and Alcohol Program known as RDAP while incarcerated.

CUSTODY/SURRENDER

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.

☐ The defendant shall report to the institution designated by the Bureau of Prisons by _____ Institution's local time, on _____.

DATE: 2-16-2005

Tena Campbell
Tena Campbell
United States District Judge

Defendant: Edward Craig Poole
Case Number: 2:04-CR-00207-001-TC

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00207

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Colleen K. Coebergh, Esq.
29 S STATE ST #007
SALT LAKE CITY, UT 84111
EMAIL

Mr. Paul M. Grant, Esq.
1894 S MAIN
SALT LAKE CITY, UT 84115

Stephanie Ames, Esq.
3635 BIRCH AVE
OGDEN, UT 84403
EMAIL

Julie George, Esq.
PO BOX 112338
29 S STATE STE 7
SALT LAKE CITY, UT 84147
EMAIL

United States Marshal Service
DISTRICT OF UTAH
/
EMAIL

US Probation
DISTRICT OF UTAH
/
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

United States District Court
District of Utah

2005 FEB 16 P 3:11

DISTRICT OF UTAH

UNITED STATES OF AMERICA

vs.

Jason Luther Clarkson

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: **1:04-CR-00108-001-TC**

Plaintiff Attorney: **Michael DiReda, SAUSA**

Defendant Attorney: **L. Clark Donaldson, Esq.**

Atty: CJA ___ Ret ___ FPD ☒

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: **11770-081**

Defendant's Residence Address: _____

Country _____

02/15/05

Date of Imposition of Sentence

Defendant's Mailing Address: _____

same

Country _____

THE DEFENDANT:

☒ pleaded guilty to count(s)

☐ pleaded nolo contendere to count(s)
which was accepted by the court.

☐ was found guilty on count(s)

COP **12/7/2004** Verdict _____

II of indictment

Title & Section

18 USC § 922(j)

Nature of Offense

Possession of a Stolen Firearm

Count

Number(s)

II

Entered on docket

2-17-05 by:

[Signature]
Deputy Clerk

☐ The defendant has been found not guilty on count(s)

☒ Count(s) **I and III** (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

10 months

Upon release from confinement, the defendant shall be placed on supervised release for a term of

36 months

☐ The defendant is placed on Probation for a period of _____
The defendant shall not illegally possess a controlled substance.

25

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☐ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. The defendant shall complete 50 hours of community service, as directed by the USPO.
2. The defendant shall not consume or possess alcohol.
3. The defendant shall submit to drug and/or alcohol testing, as directed by the USPO, and contribute a \$115 fee to partially defer the cost of collection and testing. If testing reveals illegal drug use, the defendant shall participate in drug and/or alcohol abuse treatment under a co-payment plan, as directed by the USPO.
4. The defendant shall obtain his high school diploma or GED.
5. The defendant shall submit to the collection of a DNA sample at the direction of the US Bureau of Prisons or the USPO.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ _____, payable as follows:

- ☐ forthwith.
- ☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.
- ☒ other:
No fine imposed.

- ☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).
- ☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), it is ordered that:

- ☐ The interest requirement is waived.
☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

- ☐ Restitution is payable as follows:
- ☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.
 - ☐ other: _____

- ☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).
- ☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

RECOMMENDATION

- ☒ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

The court recommends defendant be placed in a facility in Safford, Arizona.

CUSTODY/SURRENDER

- ☐ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.
- ☒ The defendant shall report to the institution designated by the Bureau of Prisons by noon Institution's local time, on 3/8/05.

DATE: 2-16-2005

Tena Campbell
Tena Campbell
United States District Judge

Defendant: Jason Luther Clarkson
Case Number: 1:04-CR-00108-001-TC

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cr-00108

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Michael D. DiReda, Esq.
DAVIS COUNTY ATTORNEY'S OFFICE
800 W STATE STREET
PO BOX 618
FARMINGTON, UT 84025
EMAIL

Mr. L. Clark Donaldson, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

1. *Author's name*
 2. *Author's address*
 3. *Author's phone number*
 4. *Author's fax number*
 5. *Author's e-mail address*
 6. *Author's website*
 7. *Author's biography*
 8. *Author's contact information*
 9. *Author's affiliation*
 10. *Author's institution*
 11. *Author's department*
 12. *Author's position*
 13. *Author's title*
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 17. *Author's specialty*
 18. *Author's research area*
 19. *Author's research interests*
 20. *Author's research topics*
 21. *Author's research projects*
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 27. *Author's research books*
 28. *Author's research monographs*
 29. *Author's research reports*
 30. *Author's research documents*
 31. *Author's research data*
 32. *Author's research results*
 33. *Author's research findings*
 34. *Author's research conclusions*
 35. *Author's research recommendations*
 36. *Author's research suggestions*
 37. *Author's research advice*
 38. *Author's research guidance*
 39. *Author's research support*
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 99. *Author's research aid*
 100. *Author's research aid*

2005 FEB 16 P.3: OFFICE OF
JUDGE TERRA CAMPBELL
DISTRICT CLERK

BY: DEPUTY CLERK (1)

*Attorneys for David K. Broadbent, as Receiver
for Merrill Scott & Associates, Ltd. et al.*

Mark J. Griffin (#4329)
Nicholas E. Hales (#4045)
WOODBURY & KESLER, P.C.
265 East 100 South, Suite 300
P.O. Box 3358
Salt Lake City, Utah 84110-3358
Telephone: (801) 364-1100
Facsimile: (801) 359-2320

Attorneys for Property Owners

RECEIVED CLERK

FEB 16 2005

U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

V.

Defendants.

**~~[PROPOSED]~~ ORDER
EXTENDING TIME TO
FILE RESPONSE TO CLAIM FILE**

Civil No. 2:02CV-0039C


Judge Tena Campbell
Magistrate Judge David Nuffer

W3

Pursuant to the joint stipulation of the parties, it is
HEREBY ORDERED THAT the Receiver may have until Wednesday, March 2,
2005, to file a response to the claim file.

DATED this 16 day of February, 2005.

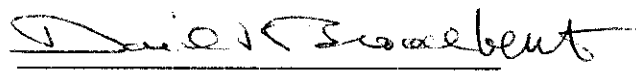
BY THE COURT:



The Honorable Tena Campbell
United States District Court Judge

APPROVED AS TO FORM AND CONTENT:

HOLLAND & HART LLP

By: 

Richard D. Clayton
Brent E. Johnson
Reha Deal
Attorneys for The Receiver

WOODBURY & KESLER, P.C.

By: 

Mark J. Griffin
Nicholas Hales
Attorneys for Property Owners

CERTIFICATE OF SERVICE

I hereby certify that on this 15 day of February, 2005, I caused a true and correct copy of the foregoing document(s) to be served on the parties involved, listed below, addressed as follows:

- ☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Fax

Mark J. Griffin, Esq.
Nicholas E. Hales, Esq.
WOODBURY & KESLER, P.C.
265 East 100 South, Suite 300
P.O. Box 3358
Salt Lake City, UT 84110-3358
Attorneys for Property Owners

Thomas M. Melton, Esq.
William B. McKean, Esq.
SECURITIES AND EXCHANGE COMMISSION
Salt Lake District Office
50 West South Temple, Suite 1800
Salt Lake City, UT 84101
Attorneys for the Securities & Exchange Commission

Rodney G. Snow, Esq.
CLYDE, SNOW, SESSIONS & SWENSON
201 South Main, Suite 1300
Salt Lake City, UT 84111
Attorneys for Michael G. Licopantis

Max D. Wheeler, Esq.
Robert J. Shelby, Esq.
SNOW, CHRISTENSEN & MARTINEAU
10 Exchange Place, Eleventh Floor
P.O. Box 45000
Salt Lake City, UT 84145-5000
Attorneys for David E. Ross, II

Haig Kalbian, Esq.
KALBIAN HAGERTY, LLP
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888 17th Street NW, Suite 1000
Washington, DC 20006

Randall Mackey, Esq.
Gifford W. Price, Esq.
Russell C. Skousen, Esq.
MACKEY PRICE & THOMPSON
350 American Plaza II
57 West 200 South
Salt Lake City, UT 84101
Attorneys for Patrick M. Brody

Steven A. Sinkin, Esq.
SINKIN & BARETTO, PLLC
105 West Woodlawn Avenue
San Antonio, TX 78212-3457
Attorneys for James P. Landis

Peter W. Billings, Jr., Esq.
FABIAN & CLENDENIN
P.O. Box 510210
Salt Lake City, Utah 84151
*Attorneys for Certain Underwriters at
Lloyds, London*

Kristopher A. Kuehn, Esq.
WARDEN TRIPLETT GRIER
9401 Indian Creek Parkway, Suite 1100,
Overland Park, KS 66210
*Attorneys for Certain Underwriters at
Lloyds, London*

Mary C. Gordon, Esq.
MANNING CURTIS BRADSHAW & BEDNAR
Third Floor Newhouse Building
10 Exchange Place
Salt Lake City, Utah 84111
Attorneys for Charles Cozean

A handwritten signature in cursive script, appearing to read "AJ Baerg", is written over a horizontal line.

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-00039

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

James P. Landis
105 W WOODLAWN
SAN ANTONIO, TX 78212

Mr. Peter W. Billings Jr, Esq.
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215 S STATE STE 1200
PO BOX 510210
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BURBIDGE & MITCHELL
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SALT LAKE CITY, UT 84111
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Mark A. Solomon, Esq.
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LAS VEGAS, NV 89101

Brent E. Johnson, Esq.
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Randy Paar, Esq.
DICKSTEIN SHAPIRO MORIN & OSHINSKY
1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2714

Mr. Max D Wheeler, Esq.

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10 EXCHANGE PLACE
PO BOX 45000
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SALT LAKE CITY, UT 84101-1655
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EMAIL

Mary C. Gordon, Esq.
MANNING CURTIS BRADSHAW & BEDNAR LLC
THIRD FLOOR NEWHOUSE BLDG
10 EXCHANGE PL
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James R. Hagerty, Esq.
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2001 L ST NW STE 600
WASHINGTON, DC 20036

Mr. Lon A Jenkins, Esq.
LEBOEUF LAMB GREENE & MACRAE LLP
136 S MAIN ST STE 1000
SALT LAKE CITY, UT 84101
JFAX 9,3598256

Craig L. Taylor, P.C.
Craig L. Taylor [4421]
Matthew Hilton [3655]
472 No. Main Street
Kaysville, UT 84037
Telephone: (801)544-9955
Fax No.: (801) 544-9977
Attorneys for Plaintiffs

FILED
RECEIVED
CLERK U.S. DISTRICT COURT
FEB 16 P 3:11
FEB 10 2005
DISTRICT OF UTAH
OFFICE OF
JUDGE TENA CAMPBELL
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

Pacific Frontier, Inc., a Nevada Corporation,
J & L Distributing, a Nevada Corporation,
Redwood Division Pro Club 100%, Inc., a
California Corporation and individuals
Benjamin G. Lansford, Anthony Dye,
Benjamin H. Memmott, Courtney Hoss,
Joshua L. Felix, Shawn L. Hoagland,
Pedro Silvaz Jr., William C. Franklin,
Parham Rezacipour, Eric W. Morgan,
Matthew A. Piehl, Chase Deschamp, and
Chad E. Smuin.

Plaintiffs,

vs.

Kaysville City, a municipal corporation, Brian D.
Cook, in his official capacity as Mayor of
Kaysville City, David Helquist, in his official
capacity as Police Chief of Kaysville City,
John Thacker, in his official capacity as
Kaysville City Manager, Reed Nelson, Neka
Roundy, Christopher Snell, John McCleary, and
Nathan Pace, in their official capacities as
members of the Kaysville City Council, and
Darrell Horne and Stephen Whitesides, in their
official capacities as former members of the
Kaysville City Council.

Defendants.

**ORDER EXTENDING DEADLINES FOR
PLAINTIFFS' DESIGNATION OF
REBUTTAL EXPERT(S), AND
EXTENDING TIME FOR PLAINTIFFS'
REBUTTAL EXPERT REPORT**

Civil No. 1:02CV00129

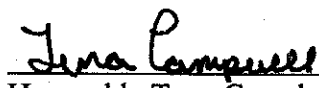
Judge Tena Campbell
Magistrate Judge Samuel Alba

171

Based upon the stipulation of the parties, and good cause appearing, the Court hereby order that Plaintiffs shall have up to and including February 17, 2005, to designate rebuttal expert witness(es) and submit rebuttal expert report(s).


DATED this 16 day of February, 2005.

BY THE COURT:



Honorable Tena Campbell
Judge, U.S. District Court
For the District of Utah, Northern Division

APPROVED AS TO FORM:



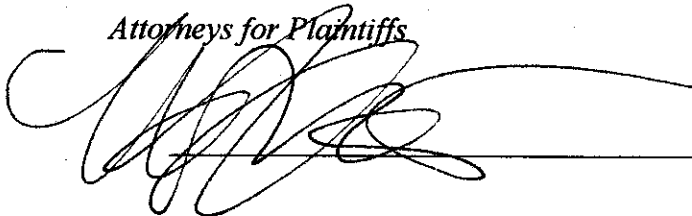
Gary L. Johnson
Martha Khudson
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing instrument was faxed and mailed, first-class, postage prepaid, on this 10th day of February, 2005, to the following:

Craig L. Taylor
CRAIG L. TAYLOR, P.C.
447 North 300 West
Suite 3
Kaysville, UT 84037
Fax No.: (801) 544-9977

Attorneys for Plaintiffs





RICHARDS, BRANDT, MILLER
& NELSON
Key Bank Tower, Suite 700
50 South Main Street
P.O. Box 2465
Salt Lake City, Utah 84110-2465
Telephone: (801) 531-2000
Fax: (801) 532-5506

FACSIMILE COVER SHEET

To: Jim Merrill
CRAIG L. TAYLOR, P.C.

FAX NO.: **801-544-9977**

Date: February 10, 2005

File No.: 8692-695

From: Martha Knudson

Re: *Pacific Frontier, et al. v. Kaysville City, et al.*

Pages: Cover + 2

Original to Follow: Yes



Confidentiality Note

The information contained in this facsimile message is attorney work product and legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this facsimile message is strictly prohibited. If you have received this facsimile message in error, please notify us immediately by telephone and return the original message to us at the above address via United States Postal Service. Thank you.

If there is any problem with this transmission, please contact Sue at the above telephone number.

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *


Re: 1:02-cv-00129

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Craig L Taylor, Esq.
472 N MAIN ST
KAYSVILLE, UT 84037
EMAIL

Mr. Gary L Johnson, Esq.
RICHARDS BRANDT MILLER & NELSON
50 S MAIN ST STE 700
PO BOX 2465
SALT LAKE CITY, UT 84110
EMAIL

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 16 P 3:10
DISTRICT CLERK, UTAH
BY: 
DEPUTY CLERK

ALDERSON FAMILY TRUST, et al.,

Plaintiff,

vs.

FIVE STAR GROUP, et al.,

Defendant.

ORDER

Case No. 2:04 CV 236 TC

On June 24, 2004, this court ordered that the above-captioned matter be referred to United States Magistrate Judge Brooke C. Wells pursuant to 28 U.S.C. § 636(b)(1)(A). The order of reference is hereby withdrawn.

SO ORDERED this 16 day of February, 2005.

BY THE COURT:



TENA CAMPBELL
United States District Judge



United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00236

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Michael R. Carlston, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

Mr. David D Jeffs, Esq.
JEFFS & JEFFS
90 N 100 E
PO BOX 888
PROVO, UT 84603
EMAIL

FILED RECEIVED
CLERK, U.S. DISTRICT COURT

2005 FEB 17 A 10:08

FEB 17 2005

OFFICE OF
JUDGE TENA CAMPBELL

RONALD J. YENGICH (#3580)
YENGICH, RICH & XAIZ
Attorneys for Defendant
175 East 400 South, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 355-0320

BY: 
DEPUTY CLERK

RECEIVED CLERK

FEB 17 2005

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

U.S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BILLY LEMUS MENDOZA,

Defendant

ORDER TO CONTINUE HEARING

Case No.: 2:04 CR 751

Honorable Tena Campbell

Based upon the motion and stipulation of counsel and for good cause shown;

THIS COURT HEREBY FINDS that the ends of justice served in granting a continuance in the above-entitled matter outweigh the best interests of the public and the defendants in a speedy trial. The Court further finds that the parties have, despite the exercise, of due diligence, not yet completed plea negotiations.

Pursuant to Title 18, § 3161(8)(A) and (B)(iv) of the Speedy Trial Act, the Motion to Suppress Hearing dat in this matter, currently set for February 14th, 2005, is hereby continued. The period of delay resulting from this continuance is hereby ordered excludable pursuant to the Speedy Trial Act.

15

IT IS FURTHER ORDERED that the Motion to Suppress Hearing be continued to the 8th day of March, 2005, at the hour of 10:00a.m, before Judge Campbell.

SIGNED BY MY HAND this 16 day of February, 2005.

BY THE COURT:

Tena Campbell
HONORABLE TENA CAMPBELL
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that I mailed/delivered a true and correct copy of the foregoing Order Continuing Motion to Suppress Hearing , postage prepaid, this 15th day of February, 2005, to the following:

U. S. Attorney's Office
185 South State Street #400
Salt Lake City, Utah 84111

Myrle J. Anderson

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00751

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Robert A. Lund, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. Ronald J. Yengich, Esq.
YENGICH RICH & KAIZ
175 E 400 S STE 400
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

United States District Court

District of Utah

UNITED STATES OF AMERICA

vs.

Rodney Lee Housekeeper

AMENDED JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: 2:04-CR-00062-001 JTG

Plaintiff Attorney: Karin M. Fojtik

Defendant Attorney: Henri R. Sisneros

Atty: CJA ___ Ret ___ FPD ☒

Defendant's Soc. Sec. No.: _____

Defendant's Date of Birth: _____

Defendant's USM No.: 11257-081

Defendant's Residence Address: _____

Country USA

2/2/2005
Date of Imposition of Sentence

Defendant's Mailing Address: _____

Same _____

Country USA

THE DEFENDANT:

☒ pleaded guilty to count(s)

COP 4/16/2004 Verdict 2 of the Indictment

☐ pleaded nolo contendere to count(s)
which was accepted by the court.☐ was found guilty on count(s)Title & Section

18 USC § 2252A(a)(2)

Nature of Offense

Receipt & distribution of child pornography

CountNumber(s)

2

Entered on d.
2/17/05 by
KVS
Deputy Clerk☐ The defendant has been found not guilty on count(s)☒ Count(s) 1 & 3 of the Indictment (is)(are) dismissed on the motion of the United States.

SENTENCE

Pursuant to the Sentencing Reform Act of 1984, it is the judgment and order of the Court that the defendant be committed to the custody of the United States Bureau of Prisons for a term of

41 months

Upon release from confinement, the defendant shall be placed on supervised release for a term of
36 months☐ The defendant is placed on Probation for a period of _____
The defendant shall not illegally possess a controlled substance.

32

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer.

- ☒ The above drug testing condition is suspended based on the court's determination that the defendant possesses a low risk of future substance abuse. (Check if applicable.)

SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

In addition to all Standard Conditions of (Supervised Release or Probation) set forth in PROBATION FORM 7A, the following Special Conditions are imposed: (see attachment if necessary)

1. Defendant shall register with the state offender registration agency in any state where the defendant resides, is employed, carries on a vocation, or is a student, as directed by the U.S. Probation Office. The Court orders that the presentence report may be released to the state agency for purposes of sex offender registration.
2. Defendant shall participate in a mental health &/or sex-offender treatment program as directed by the U.S. Probation Office.
3. Defendant is restricted from visitation with individuals who are under 18 years of age without adult supervision as approved by the U.S. Probation Office.
4. Defendant shall abide by the following occupational restrictions: Any employment shall be approved by the U.S. Probation Office. In addition, if third-party risks are identified, the U.S. Probation Office is authorized to inform the defendant's employer of his supervision status.
5. Defendant shall not possess or use a computer with access to any on-line computer service without the prior written approval of the Court. This includes any Internet service provider, bulletin board system, or any other public or private computer network. Any approval by the Court shall be subject to the conditions set by the Court or the U.S. Probation Office. In addition, the defendant shall: (a) not possess or use any public or private data encryption technique or program, and (b) consent to having installed on his computer(s) any hardware or software systems to monitor his computer usage.
6. Defendant shall not view or otherwise access pornography in any format.

CRIMINAL MONETARY PENALTIES

FINE

The defendant shall pay a fine in the amount of \$ NONE , payable as follows:

☐ forthwith.

☐ in accordance with the Bureau of Prison's Financial Responsibility Program while incarcerated and thereafter pursuant to a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

☐ in accordance with a schedule established by the U.S. Probation office, based upon the defendant's ability to pay and with the approval of the court.

☒ other:

No Fine Imposed

☐ The defendant shall pay interest on any fine more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f).

☐ The court determines that the defendant does not have the ability to pay interest and pursuant to 18 U.S.C. § 3612(f)(3), **it is ordered that:**

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

RESTITUTION

The defendant shall make restitution to the following payees in the amounts listed below:

<u>Name and Address of Payee</u>	<u>Amount of Loss</u>	<u>Amount of Restitution Ordered</u>
----------------------------------	-----------------------	--

Totals: \$ _____ \$ _____

(See attachment if necessary.) All restitution payments must be made through the Clerk of Court, unless directed otherwise. If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless otherwise specified.

☐ Restitution is payable as follows:

☐ in accordance with a schedule established by the U.S. Probation Office, based upon the defendant's ability to pay and with the approval of the court.

☐ other:

☐ The defendant having been convicted of an offense described in 18 U.S.C. § 3663A(c) and committed on or after 04/25/1996, determination of mandatory restitution is continued until _____ pursuant to 18 U.S.C. § 3664(d)(5)(not to exceed 90 days after sentencing).

☐ An Amended Judgment in a Criminal Case will be entered after such determination

SPECIAL ASSESSMENT

The defendant shall pay a special assessment in the amount of \$ 100.00, payable as follows:

☒ forthwith.

☐ _____

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid

PRESENTENCE REPORT/OBJECTIONS

The court adopts the factual findings and guidelines application recommended in the presentence report except as otherwise stated in open court.

DEPARTURE

The Court does not grant the Motion for Departure pursuant to 18 U.S.C. 3553(c)(2), the Court enters its reasons for departure: NOT APPLICABLE

RECOMMENDATION

☒ Pursuant to 18 U.S.C. § 3621(b)(4), the Court makes the following recommendations to the Bureau of Prisons:

The Court recommends the defendant serve his sentence at FCI Nellis, Nevada or as close to Utah, such as Colorado or Arizona, to allow family visitation.

CUSTODY/SURRENDER

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district at _____ on _____.

☒ The defendant shall report to the institution designated by the Bureau of Prisons by 12:00 Noon Institution's local time, on Monday April 4, 2005.

DATE: February 16, 2005

J. Thomas Greene
J. Thomas Greene
United States District Judge

Defendant: Rodney Lee Housekeeper
Case Number: 2:04-CR-00062-001 JTG

Page 5 of 5

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00062

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Michele M. Christiansen, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Karin Fojtik, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Rebecca C. Hyde, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

Henri R. Sisneros, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

United States District Court

CENTRAL DISTRICT OF UTAH

UNITED STATES OF AMERICA

ORDER OF DETENTION PENDING TRIAL

v.

DANIEL DAVID EGLI

Case Number:

2:04-CR-577 TC

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I - Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- ☐ a crime of violence as defined in 18 U.S.C. §3156(a)(4)
- ☐ an offense for which the maximum sentence is life imprisonment or death
- ☐ an offense for which the maximum term of imprisonment of ten years or more is prescribed in _____ *
- ☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses
- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense
- ☐ (3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternate Findings (A)

- ☐ (1) There is probable cause to believe that the defendant has committed an offense
- ☐ for which a maximum term of imprisonment of ten years or more prescribed in _____
- ☐ under 18 U.S.C. §924(c)
- ☐ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternate Findings (B)

- ☐ (1) There is a serious risk that the defendant will not appear.
- ☒ (2) There is a serious risk that the defendant will endanger the safety of another person or the community

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by (clear and convincing evidence) (a preponderance of the evidence) that

Defendant's failure to comply with BSA requirements and continued use of a computer and pornography constitute risk of danger

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: February 15, 2005



Signature of Judicial Officer

MAGISTRATE JUDGE DAVID NUFFER

Name and Title of Judicial Officer

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00577

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Karin Fojtik, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Jack M. Morgan Jr, Esq.
SKORDAS CASTON & MORGAN LLC
9 EXCHANGE PL STE 1104
BOSTON BLDG
SALT LAKE CITY, UT 84111
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Richard D. Clayton (#0678)
Reha Deal (#8487)
HOLLAND & HART LLP
60 East South Temple, Suite 2000
Salt Lake City, Utah 84111-1031
Telephone: (801) 595-7800
Facsimile: (801) 364-9124

*Attorneys for Ramp International, Inc.
and William A. Poce*

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

PT BUKAKA TEKNIK UTAMA, an Indonesian
corporation derivatively and on behalf of RAMP
International, Inc., a Utah corporation,

Plaintiff,

v.

WILLIAM A. POCE,

Defendant, and

RAMP INTERNATIONAL, INC.,

Nominal Defendant.

PT BUKAKA TEKNIK UTAMA,

Plaintiff,

v.

RAMP INTERNATIONAL, INC.,

Defendant.

**~~PROPOSED~~ ORDER
GRANTING EXTENSION OF TIME
TO FILE REPLY MEMORANDUM
IN SUPPORT OF MOTION
TO DISMISS ALL CLAIMS**

Civil No. 2:04CV00543TS

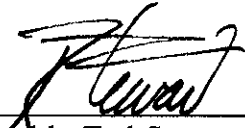
Judge Ted Stewart



For the reasons set forth in the parties joint motion and for good cause shown, it is

HEREBY ORDERED THAT Defendant William A. Poce may have until Monday, February 21, 2005, in which to file Reply Memorandum in Support of his Motion to Dismiss All Claims in this matter.


DATED this 17th day of February, 2005.



The Honorable Ted Stewart
United States District Court Judge

DATED this 14 day of February, 2005.

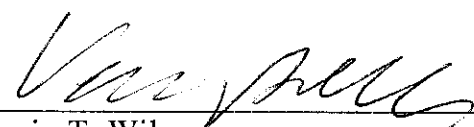
HOLLAND & HART LLP

By: 

Att: Richard D. Clayton
Reha Deal
Attorneys for William A. Poce

DATED this 14th day of February, 2005.

SMITH HARTVIGSEN PLLC

By: 

Benjamin T. Wilson
Attorneys for Plaintiff
Vaughn R. Pickell

CERTIFICATE OF SERVICE

I hereby certify that on this 14 day of February, 2005, I caused a true and correct copy of the foregoing document(s) to be served on the parties involved, listed below, addressed as follows:

- ☒ U.S. Mail, postage prepaid
- ☐ Hand Delivery
- ☐ Fax

Benjamin T. Wilson
D. Scott Crook
Brent N. Bateman
SMITH HARTVIGSEN PLLC
650 Parkside Tower
215 South State Street
Salt Lake City, Utah 84111

AJ Baerger

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00543

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Benjamin T. Wilson, Esq.
SMITH HARTVIGSEN
215 S STATE STE 650
SALT LAKE CITY, UT 84111
EMAIL

Mr. Richard D. Clayton, Esq.
HOLLAND & HART
60 E SOUTH TEMPLE STE 2000
SALT LAKE CITY, UT 84111-1031
EMAIL

Steven R. Skirvin, Esq.
DION KINDEM & CROCKETT
21271 BURBANK BLVD STE 100
WOODLAND HILLS, CA 91367
EMAIL

PAUL M. WARNER, United States Attorney (#3389)
RICHARD W. DAYNES, Assistant United States Attorney (#5686)
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111
Telephone: (801) 524-5682

RECEIVED CLERK

FEB 15 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

5 FIREARMS AND MISCELLANEOUS
AMMUNITION,

Defendants.

CASE 2:04-CV-00467 TS

Judge Ted Stewart

ORDER OF DISMISSAL

Based on the motion by the government and good cause appearing;

IT IS HEREBY ORDERED that the government's Motion for Leave to Dismiss is granted.

Dated this 17th day of February, 2005.


TED STEWART
United States District Judge

4

jmr

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00467

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Richard W. Daynes, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 17 A 10:41

SALT LAKE CITY, UTAH

BERMAN & SAVAGE, P.C.
50 South Main Street, Suite 1250
Salt Lake City, Utah 84144
Telephone: (801) 328-2200

SO ORDERED

RECEIVED CLERK

2005 FEB -9 P 4:41

Ted Stewart
TED STEWART
United States District Judge

U.S. DISTRICT COURT
DISTRICT OF UTAH

Date

2/17/05

RECEIVED

FEB - 9 2005

JUDGE'S COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF UTAH

METAGENICS, INC., a California
Corporation,

Plaintiff,

v.

MONARCH NUTRITIONAL
LABORATORIES, INC., a Utah
Corporation; NUTRACEUTICAL
INTERNATIONAL CORPORATION, a
Delaware Corporation;
NUTRACEUTICAL CORPORATION, a
Delaware Corporation,

Defendants.

**NOTICE OF SUBSTITUTION OF
COUNSEL**

Civil No. 2-03-CV-97

Judge Ted Stewart

Magistrate Judge David Nuffer

ORDER

PLEASE TAKE NOTICE that Tomsic Law Firm, LLC. is substituting as counsel in this matter for defendants Monarch Nutritional Laboratories, Inc., Nutraceutical International Corporation, and Nutraceutical Corporation ("Nutraceutical"), in the place of Berman, Tomsic & Savage, upon the direction and with the consent of Nutraceutical.

77


Contact information for the Tomsic Law Firm is as follows:

Tomsic Law Firm, LLC.
136 East South Temple, Suite 800
Salt Lake City, Utah 84111
Phone: (801) 532-1995
email: tlf@tomsiclaw.net

Peggy Tomsic at Tomsic Law Firm, new lead counsel for Nutraceutical, hereby certifies that Tomsic Law Firm will comply with and execute the pending hearing, schedule and deadlines.

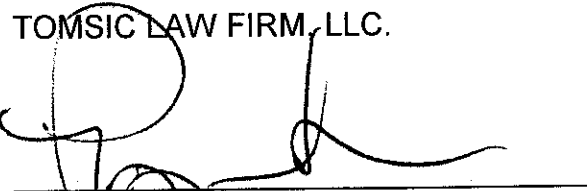
DATED: January 31, 2005.

BERMAN & SAVAGE, P.C.


Stephen R. Waldron

DATED: January 21, 2005.

TOMSIC LAW FIRM, LLC.


Peggy A. Tomsic

AGREED TO:

Stan Soper, Esq.
Vice President, Legal Affairs
Nutraceutical Corporation


Contact information for the Tomsic Law Firm is as follows:

Tomsic Law Firm, LLC.
136 East South Temple, Suite 800
Salt Lake City, Utah 84111
Phone: (801) 532-1995
email: tff@tomsiclaw.net

Peggy Tomsic at Tomsic Law Firm, new lead counsel for Nutraceutical, hereby certifies that Tomsic Law Firm will comply with and execute the pending hearing, schedule and deadlines.


DATED: January 31, 2005.

BERMAN & SAVAGE, P.C.



Stephen R. Waldron

DATED: January 21, 2005.

TOMSLIC LAW FIRM, LLC.


Peggy A. Tomsic

AGREED TO:


Stan Soper, Esq.
Vice President, Legal Affairs
Nutraceutical Corporation

CERTIFICATE OF SERVICE

I hereby certify that on ~~January~~ ^{February} 9th, 2005 true and correct copies of NOTICE

OF SUBSTITUTION OF COUNSEL was mailed, postage prepaid, to the following:

Ralph C. Petty, Esq.
Berrett & Associates, L.C.
Key Bank Tower, Suite 530
50 South Main Street
Salt Lake City, Utah 84144

Marta S. Stott

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00097

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Ralph C Petty, Esq.
10 W BROADWAY STE 800
SALT LAKE CITY, UT 84101
EMAIL

Stephen R. Waldron, Esq.
BERMAN & SAVAGE PC
50 S MAIN STE 1250
SALT LAKE CITY, UT 84144
EMAIL


Mr. Daniel L. Berman, Esq.
BERMAN & SAVAGE PC
50 S MAIN STE 1250
SALT LAKE CITY, UT 84144
EMAIL

Ms. Peggy A Tomsic, Esq.
TOMSIC LAW FIRM LLC
136 E SO TEMPLE #800
SALT LAKE CITY, UT 84111
EMAIL

Kristopher S. Kaufman, Esq.
TOMSIC LAW FIRM LLC
136 E SO TEMPLE #800
SALT LAKE CITY, UT 84111

SO ORDERED

David M. Wahlquist (#3349)
KIRTON & McCONKIE
Attorneys for Plaintiffs
1800 Eagle Gate Tower
60 East South Temple
P.O. Box 45120
Salt Lake City, Utah 84145-0120
Telephone: (801) 328-3600


TED STEWART
United States District Judge
Date 2/2/05

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 17 A 0:40
RECEIVED
FEB 15 2005
JUDGE'S COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

BENEFIT STRATEGIES GROUP, INC.,
as administrator of the Sterling Benefit
Plan Multiple - Employer Trust, et al.,

Plaintiffs,

vs.

ARROWHEAD TRUST, INC., a
California corporation,

Defendants.

RICHARD E. GORDON, M.D., P.C., and
RICHARD E. GORDON, M.D.,

Plaintiffs,

vs.

ARROWHEAD TRUST, INC., a California
corporation, BENEFIT STRATEGIES
GROUP, INC., a Utah corporation,
RONALD H. SNYDER, and RONALD H.
SNYDER, dba STERLING BENEFIT,

Defendants.

ORDER

**NOTICE OF WITHDRAWAL OF
MOTION FOR SUMMARY
JUDGMENT**

Case No. 2:03CV00389 TS
Consolidated Action

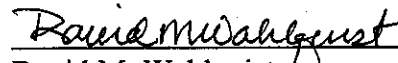
Judge Ted Stewart

Magistrate Alba

Defendants Benefit Strategies Group, Inc. and Ronald H. Snyder hereby withdraw their Motion for Summary Judgment previously filed in this matter. The hearing set for March 14, 2005 at 2:30 p.m. with respect to this Motion has been canceled. Said Defendants contemplate refiling their Motion once Plaintiffs have had an opportunity to complete discovery in this matter. Plaintiff's counsel has advised these Defendants' counsel that he has no objection to the withdrawal of the Motion, cancellation of the March 14, 2005 hearing, and refiling of the Motion at a later date.

DATED this 14th day of February, 2005.

KIRTON & McCONKIE



David M. Wahlquist
Attorneys for Defendants Benefit Strategies
Group, Inc. and Ronald H. Snyder

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of February, 2005, I caused a true and correct copy of the foregoing NOTICE OF WITHDRAWAL OF MOTION FOR SUMMARY JUDGMENT to be mailed, United States mail, postage prepaid, to the following:

Keith W. Meade
COHNE, RAPPAPORT & SEGAL, P.C.
257 East 200 South, Suite 700
Salt Lake City, Utah 84102
Attorneys for Plaintiff

David B. Watkiss
Angela W. Adams
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
201 South Main Street, Suite 600
Salt Lake City, UT 84111-2221
Attorneys for Arrowhead Trust, Inc.

Blake T. Ostler
MACKEY PRICE & THOMPSON
57 West 200 South, Suite 350
Salt Lake City, Utah 84102

Ronald H. Snyder
Benefit Strategies Group, Inc.
5957 South Redwood Road, Suite 100
Salt Lake City, Utah 84123

Consta Major

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00389

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David B. Watkiss, Esq.
BALLARD SPAHR ANDREWS & INGERSOLL
201 S MAIN STE 600
SALT LAKE CITY, UT 84111-2215
EMAIL

Blake T. Ostler, Esq.
MACKEY PRICE THOMPSON & OSTLER
57 W 200 S STE 350
SALT LAKE CITY, UT 84101-1655
EMAIL

Mr. Keith W Meade, Esq.
COHNE RAPPAPORT & SEGAL
PO BOX 11008
SALT LAKE CITY, UT 84147-0008
EMAIL

Mr. David M. Wahlquist, Esq.
KIRTON & MCCONKIE
60 E S TEMPLE STE 1800
SALT LAKE CITY, UT 84111-1004
EMAIL

ROBERT BREEZE #4278
Attorney for Defendant
402 East 900 South #1
Salt Lake City, Utah 84111
Telephone: (801) 322-2138
Facsimile: (801) 328-2554
E-mail: rbreeze@lgcy.com

FILED

2005 FEB 17 A 3:40

RECEIVED CLERK

FEB 14 2005

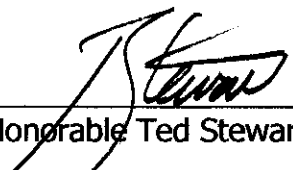
IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH,
U.S. DISTRICT COURT

CENTRAL DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. 2:04 CR 154 TS
)	
Plaintiff,)	
	)	ORDER FOR MOTION TO CONTINUE
vs.	)	TRIAL
)	
Mark Crew,)	
)	
)	
Defendant .)	
_____	)	Honorable Ted Stewart

BASED UPON the motion of defendant and good cause appearing therefore it is hereby ordered that the trial in this matter be continued until the 9th day of May, 2005 at 8:30 o'clock a.M. Further any delay occasional by this continuance shall be excluded from any computation under the Speedy Trial Act, 18 U.S.C. 3161. Further, the court finds that the interests of justice outweigh the need of defendant and the public to have a speedy trial.

Dated this 17th day of February, 2005



Honorable Ted Stewart

91

CERTIFICATE OF MAILING

_____ I hereby certify that I either mailed/faxed/hand delivered a copy of the foregoing to:

Mr. Vernon G. Stejskal
Special Assistant U. S. Attorney
185 South State Street, Suite 400
Salt Lake City, Utah 84111

Dated this 14 day of February, 2005.



United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00154

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Vernon G. Stejskal, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
348 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

Wendy M. Lewis, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

David O. Leavitt, Esq.
470 E 3900 S STE 200
SALT LAKE CITY, UT 84107
EMAIL

Robert Breeze, Esq.
402 E 900 S #1
SALT LAKE CITY, UT 84111
EMAIL

Mr. Michael W Jaenish, Esq.
150 S 600 E #5C
SALT LAKE CITY, UT 84102
EMAIL

United States Marshal Service
DISTRICT OF UTAH
/
EMAIL

US Probation
DISTRICT OF UTAH
/
EMAIL

JAMES K. SLAVENS (6138)
Attorney for
P. O. Box 752
Fillmore, Utah 84631
435-743-4225

FILED
CLERK, U.S. DISTRICT COURT
RECEIVED CLERK
2005 FEB 17 A 10:14
FEB 15 2005
U.S. DISTRICT COURT
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF UTAH

MICHELLE DAVIS,

Plaintiff,

vs.

STOCK BUILDING SUPPLY WEST,
INC. f/k/a ANDERSON LUMBER, and
DENNIS HILLMAN,

Defendant.

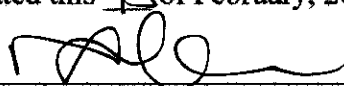
ORDER RE:
MOTION TO EXTEND TIME
TO RESPOND

Case No. 203 CV 01088TS

JUDGE TED STEWART

THE COURT, having reviewed the Plaintiff's *Strickland per* Motion and finding good cause therefore,
HEREBY ORDERS that the Plaintiff may have until February 22, 2005 to file a Response
to the Defendant's Motion for Summary Judgment.

Dated this 15 of February, 2005



Judge Ted Stewart

49

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true and correct copy of the foregoing document has this 7
day of February, 2005, been served upon the below named parties by placing a copy of the same in
the U.S. Mail, postage prepaid, to:

Jacqueline M. Yount
Suite 3500
101 South Tryon Street
Charlotte, North Carolina 28280



JAMES K. SLAVENS
Attorney for Plaintiff

jmr

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-01088

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. James K. Slavens, Esq.
PO BOX 752
FILLMORE, UT 84631
EMAIL

Robert O. Rice, Esq.
RAY QUINNEY & NEBEKER
36 S STATE ST STE 1400
PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

A. Todd Brown, Esq.
HUNTON & WILLIAMS LLP
BANK OF AMERICAN PLAZA
101 S TYRON ST STE 3500
CHARLOTTE, NC 28280

D. Kendall Perkins USB#2566
Attorney for Trustee
2417 East 9110 South
Sandy, Utah 84093
Telephone: (801) 942-2078
Fax: (801) 942-2703

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF UTAH

UNITED STATES OF AMERICA

Plaintiff,

MOTION FOR EXTENSION OF TIME TO
RESPOND

vs.

Case No. 2:04 CR 141 TS

STANLEY WADE

Defendant

ORDER

ORDER

D. Kendall Perkins, has appeared specially in this matter as counsel for Trustee of Wade Management UBO, a trust, which trust has posted the Two Million Dollars cash bail for release of Stanley Wade, Defendant in this matter. At hearing on the matter held on February 15, 2005, counsel represented to the Court that he had earlier withdrawn his motion to release the bail posted in this matter based on representation of the Government that it would not attempt to forfeit the bail posted in this matter. The Government stated that it had not fully committed to abandon forfeiture and the Court gave the Government until Friday, February 18, 2005 to respond to the Trustee's motion. Counsel for the Trustee is leaving the country tomorrow, Wednesday, February 16, 2005 and will not return until February 25, 2005. Said counsel is a solo practitioner, and has no one else to review and reply to the Government's response and there fore, D. Kendall Perkins hereby moves the Court for an extension of time of five business days

1

SO ORDERED

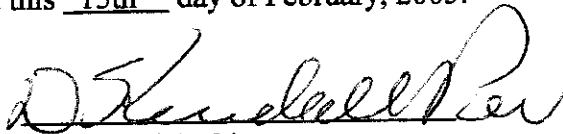

TED STEWART
United States District Judge

Date 2/17/05

161

after February 25, or until March 4th, 2005 to reply to the Government's response.

Dated this 15th day of February, 2005.



D. Kendall Perkins
Attorney for Trustee

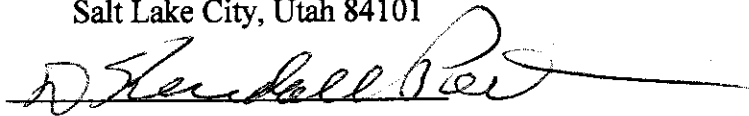
CERTIFICATE

I hereby certify that I caused a copy of the foregoing to be sent by facsimile, 524-6924 to Gordon Campbell; and by U. S. Mail, postage pre-paid this 15 day of Feb., 2004, to:

Paul M. Warner
Gordon W. Campbell
U. S. Attorney
Attorneys for Plaintiff
185 South State Street
Salt Lake City, Utah 84111

Max D. Wheeler
Richard A Van Wagoner
SNOW, CHRISTIAN and MARTENEAU
Attorneys for Janet Wade
10 Exchange Place #1100
Salt Lake City, Utah 84111

Randall Gaither
Attorney for Stanley Wade
159 West 300 South
The Broadway Lofts #105
Salt Lake City, Utah 84101



United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00141

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Gordon W Campbell, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Robert Alan Jones, Esq.
RAJ LIMITED PC
1061 E FLAMINGO RD STE 7
LAS VEGAS, NV 89119

Mr. Randall T Gaither, Esq.
159 W 300 S #105
SALT LAKE CITY, UT 84101
EMAIL

Mr. D. Kendall Perkins, Esq.
2417 E 9110 S
SANDY, UT 84093
EMAIL

Mr. Max D Wheeler, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 17 A 9:39

U.S. DISTRICT COURT

BY: ~~DEPUTY CLERK~~

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FEB - 3 2005

U.S. DISTRICT COURT

John A. Pearce USB #8585
JONES WALDO HOLBROOK & McDONOUGH PC
170 South Main Street, Suite 1500
Salt Lake City, Utah 84101
Telephone: (801) 521-3200

Paula S. Quist (admitted *Pro Hac Vice*)
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, IL 60601-1692
Telephone: (312)782-3939

Attorneys for Defendant Experian Information Solutions, Inc.

IN THE UNITED STATES DISTRICT COURT

STATE OF UTAH, CENTRAL DIVISION

DENNIS GONZALES, an individual and	:	PROPOSED ORDER REGARDING
JOAN GONZALES, an individual,	:	STIPULATION FOR EXTENSION OF
	:	TIME
Plaintiffs,	:	
vs.	:	
	:	
EXPERIAN INFORMATION SYSTEMS,	:	Case No. 2:04CV00912
INC., an Ohio Corporation, TRANS UNION	:	
L.L.C., an Illinois Limited Liability Company,	:	Judge Dee Benson
EQUIFAX, INC., a Georgia Corporation and	:	
CORPORATE DOES 1-10,	:	
	:	
Defendants.	:	

Based upon the Stipulation to Extend Time to file Reply Memorandum in Support of Motion to Dismiss signed by counsel for Plaintiff and Experian Information Solutions, Inc. and good cause appearing:

23

IT IS HEREBY ORDERED that the time within which Defendants is extended to and including February 11, 2005.

Dated this 16 day of February, 2005.

BY THE COURT



Honorable Dee Benson
United States District Court Judge

APPROVED AS TO FORM:

JOHN C. HEALTH, ATTORNEY AT LAW P.L.L.C.

By: 

John C. Heath

Eric Stephenson

Attorneys for Plaintiffs Dennis Gonzales and
Joan Gonzales

JONES WALDO HOLBROOK & McDONOUGH PC

By: 

John A. Pearce

Attorneys for Defendant Experian Information Solutions, Inc.

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00912

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

John C. Heath, Esq.
634 S 400 W
PO BOX 1173
SALT LAKE CITY, UT 84110
EMAIL

Paula S. Quist, Esq.
JONES DAY
77 W WACKER STE 3500
CHICAGO, IL 60601-1692
EMAIL

John A. Pearce, Esq.
JONES WALDO HOLBROOK & MCDONOUGH
170 S MAIN ST STE 1500
PO BOX 45444
SALT LAKE CITY, UT 84145-0444
EMAIL

Mr. Keith W Meade, Esq.
COHNE RAPPAPORT & SEGAL
PO BOX 11008
SALT LAKE CITY, UT 84147-0008
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 17 A 9:38

RECEIVED CLERK

PAUL M. WARNER, United States Attorney (#36391)
JAN N. ALLRED, Assistant United States Attorney (#4741)
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111-1506
Telephone (801) 524-5682

FEB - 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	O R D E R
)	
vs.)	
)	
CODY H. Park,	)	Case No. 2:98CR00151-002
)	
Defendant,	)	Honorable Dee V. Benson

The Court, having received the Stipulation of the parties dated 1/14/05, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. Judgment was entered on August 26, 1998 in the total sum of \$29,968.13 in favor of the United States of America (hereafter the "United States") and against Cody H. Park (hereafter "Park").

2. Park has agreed to pay and the United States has agreed to accept monthly installment payments from him in the amount of \$150.00 commencing on the 15th day of February, 2005 and continuing thereafter on the 15th day of each month for a period of

12 months. At the end of said time period, and yearly thereafter, Park shall submit a current financial statement to the United States Attorney's Office. This payment schedule will be evaluated and may be modified, based on the documented financial status of Park.

3. In addition to the regular monthly payment set forth in paragraph 2, above, Park has agreed that the United States may submit his debt in the above-captioned case to the State of Utah and the U.S. Department of Treasury for inclusion in the State Finder program and the Treasury Offset program. Park understands that under these programs, any state or federal payment that he would normally receive may be offset and applied toward the debt in the above-captioned case.

4. Park shall submit all financial documentation in a timely manner and keep the United States Attorney's Office apprised of the following:

- a. Any change of address; and
- b. Any change in employment.

5. The United States has agreed to refrain from execution on the judgment so long as Park complies strictly with the agreement set forth in paragraphs 2 and 4, above. In the event Park fails to comply strictly with the terms set forth in the Stipulation dated 1/14/05, the United States may move the Court ex parte for a writ of execution and/or a writ of

garnishment or any other appropriate order it deems necessary for the purpose of obtaining satisfaction of the judgment in full.

DATED this 14th day of ~~January~~ February 2005.

BY THE COURT:

Dee V. Benson

DEE V. BENSON, Chief Judge
United States District Court

APPROVED AS TO FORM:

Cody H. Park
CODY H. Park
Defendant

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:98-cr-00151

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

/
EMAIL

United States Marshal Service
DISTRICT OF UTAH

/
EMAIL

Leshia M. Lee-Dixon, Esq.
US ATTORNEY'S OFFICE

/
EMAIL

kvs

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:98-cr-00151

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Julie George, Esq.
PO BOX 112338
29 S STATE STE 7
SALT LAKE CITY, UT 84147
EMAIL

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CLERK, U.S. DISTRICT COURT

The Carter-Reed Company, LLC,
Plaintiff

v.

The Federal Trade Commission,
Defendant.

2005 FEB 17 A 9:38

CASE NO. 2:04CV01142DB

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2005 FEB 14 P 5:43

DISTRICT COURT UTAH

BY: * Appearing on behalf of:

* DEPT. OF JUSTICE

* Defendant - Federal Trade Commission

* (Plaintiff/Defendant)

*

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Carlie Christensen, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearing pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: Feb 14, 2005

Carlie Christensen
(Signature of Local Counsel)

0633
(Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Drake Cutini, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) X a non-resident of the State of Utah or, (ii) ___ a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Carlie Christensen as associate local counsel.

Date: February 8, 2005.

Check here X if petitioner is lead counsel.

Drake Cutini
(Signature of Petitioner)

Name of Petitioner: Drake Cutini Office Telephone: 202-307-0044
(Area Code and Main Office Number)

Business Address: U.S. Department of Justice, Office of Consumer Litigation, P.O. Box 386
(Firm/Business Name)
1331 Pennsylvania Ave., N.W., (NPB), Room 950N, Washington, DC 20044
Street City State Zip

12

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
District of Columbia Court of Appeals	Washington, D.C.	June 19, 1981
U.S. Supreme Court	Washington, D.C.	Oct. 4, 1999
U.S. Court of Appeals for the First Circuit	Boston, MA	Oct. 3, 1989
U.S. Court of Appeals for the Fourth Circuit	Richmond, VA	Jan. 7, 1985
U.S. Court of Appeals for the Fifth Circuit	New Orleans, LA	Apr. 2, 1987
U.S. Court of Appeals for the Sixth Circuit	Cincinnati, OH	June 12, 1980
U.S. Court of Appeals for the Seventh Circuit	Chicago, IL	Feb. 5, 1993
U.S. Court of Appeals for the Ninth Circuit	San Francisco, CA	Oct. 20, 1998
U.S. Court of Appeals for the Tenth Circuit	Denver, CO	Nov. 2, 1984
U.S. District Court for the District of Columbia	Washington, D.C.	June 19, 1981

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
Pharmanex, Inc. v. Shalala, et al.,	2:97cv262K	2000
Utah Medical Products, Inc. v. McClellan, et al.,	2:03cv00525PGC	2003
Utah Medical Products, Inc. v. McClellan, et al.,	2:04cv00097TS	2004

(If additional space is needed, attach a separate sheet.)

NO FEE REQUIRED

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 16 day of February, 2005.



U.S. District Judge

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01142

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

James E. Magleby, Esq.
MAGLEBY & GREENWOOD PC
170 S MAIN ST STE 350
SALT LAKE CITY, UT 84101
EMAIL

Jeffrey D. Feldman, Esq.
FELDMAN GALE PA
201 S BISCAYNE BLVD STE 1920
MIAMI, FL 33131

Todd M. Malynn, Esq.
FELDMANGALE
880 W FIRST ST STE 315
LOS ANGELES, CA 90012

Ms. Carlie Christensen, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Drake Cutini, Esq.
US DEPARTMENT OF JUSTICE
OFFICE OF CONSUMER LITIGATION
Room 950N
PO BOX 386
WASHINGTON, DC 20044

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

The Carter-Reed Co., LLC
Plaintiff

v.

Federal Trade Commission
Defendant.

RECEIVED CLERK
CASE NO. 2:04CV01142 DB
2005 FEB 14 P 5:42
Appearing on behalf of:
Federal Trade Commission
(Plaintiff/Defendant)
FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 17 A 9:38
DISTRICT OF UTAH
DEPUTY CLERK

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Carlie Christensen, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: Feb 14, 2005
Carlie Christensen 0633
(Signature of Local Counsel) (Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Lawrence DeMille-Wagman, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) ☒ a non-resident of the State of Utah or, (ii) ☐ a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Carlie Christensen as associate local counsel.

Date: January 28, XX 2005 Check here ☐ if petitioner is lead counsel.

Lawrence DeMille-Wagman
(Signature of Petitioner)

Name of Petitioner: Lawrence DeMille-Wagman Office Telephone: (202) 326-2448
(Area Code and Main Office Number)

Business Address:

Federal Trade Commission

(Firm/Business Name)

600 Pennsylvania Ave., N.W.

Street

Washington, D.C.

City

20580

State

Zip

13

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
District of Columbia Court of Appeals		6/10/77
U.S. Dist. Ct., E.D. Kentucky		5/30/78
U.S. Ct. of Appeals, D.C. Circuit		5/15/85
U.S. Ct. of Appeals, 5th Circuit		8/11/89
U.S. Ct. of Appeals, 9th Circuit		1/14/91
U.S. Ct. of Appeals, 4th Circuit		3/23/92
U.S. Dist. Ct., W.D. Washington		5/5/93
U.S. Ct. of Appeals, 10th Circuit		8/25/97
U.S. Ct. of Appeals, 11th Circuit		4/13/99
U.S. Supreme Court		3/3/99
U.S. Ct. of Appeals, 7th Circuit		8/30/02
U.S. Ct. of Appeals, 2nd Circuit		12/5/02
U.S. Dist. Ct., D. Colo.		2/24/03

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
FTC v. Freecom Comm., Inc.	2:96CV0492S	9/17/02

(If additional space is needed, attach a separate sheet.)

NO FEE REQUIRED

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 16 day of February, 2005.



U.S. District Judge

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01142

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

James E. Magleby, Esq.
MAGLEBY & GREENWOOD PC
170 S MAIN ST STE 350
SALT LAKE CITY, UT 84101
EMAIL

Jeffrey D. Feldman, Esq.
FELDMAN GALE PA
201 S BISCAYNE BLVD STE 1920
MIAMI, FL 33131

Todd M. Malynn, Esq.
FELDMANGALE
880 W FIRST ST STE 315
LOS ANGELES, CA 90012

Ms. Carlie Christensen, Esq.
US ATTORNEY'S OFFICE

EMAIL

Drake Cutini, Esq.
US DEPARTMENT OF JUSTICE
OFFICE OF CONSUMER LITIGATION
Room 950N
PO BOX 386
WASHINGTON, DC 20044

Lawrence DeMille-Wagman, Esq.
FTC
600 PENNSYLVANIA AVE NW
WASHINGTON, DC 20580

STEVEN B. KILLPACK, Federal Defender (#1808)
L. CLARK DONALDSON, Assistant Federal Defender (#1822)
UTAH FEDERAL DEFENDER OFFICE
Attorney for Defendant
46 West Broadway, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010
Facsimile: (801) 524-4060

FILED
RECEIVED CLERK
FEB 10 2005
U.S. DISTRICT COURT
BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

SEAN APPLEBAUM,

Defendant.

ORDER TO CONTINUE TRIAL

Case No. 2:04CR665 DB

Based on the motion to continue trial filed by defendant in the above-entitled case, and good cause appearing,

It is hereby ORDERED that the trial previously scheduled for Sean Applebaum is hereby continued to this 28 day of March, 2005, at 8:30 A.m. Pursuant to 18 U.S.C. § 3161(h), the court finds the ends of justice served by such a continuance outweigh the best interests of the public and the defendant to a speedy trial. The time of the delay shall constitute excludable

116

time under the Speedy Trial Act.

Dated this 16th day of February, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Dee Benson", is written over a horizontal line.

HONORABLE DEE BENSON
United States District Court Judge

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00665

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Trina A Higgins, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

Mr. L. Clark Donaldson, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

Denver C. Snuffer (#3032)
Bret W. Reich (#9542)
**NELSON, SNUFFER,
DAHLE & POULSEN, P.C.**
10885 South State Street
Sandy, UT 84070
Telephone: (801) 576-1400

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

BIOMERIDIAN INTERNATIONAL,
INC., a Utah corporation,

Plaintiff,

v.

JAMES HOYT CLARK, an individual;
WILLIS H. CLARK, an individual; and
STAR TECH HEALTH SERVICE, LLC.,
a Utah business entity,

Defendants.

Civil No.: 2: 00CV 945 B

Judge Dee Benson
Magistrate Judge Samuel Alba

**ORDER TO EXTEND MEDIATION
PERIOD**

Based upon the stipulation signed by the parties on February 11, 2005 and submitted concurrently herewith, it is hereby

ORDERED, ADJUDGED AND DECREED THAT

The parties shall have until May 15, 2005 to mediate and/or file dispositive motions in this proceeding.

FILED
CLERK, U.S. DISTRICT COURT
RECEIVED
2005 FEB 17 A 9:38
CLERK
DISTRICT OF UTAH
2005 FEB 15 P 5:01
DEPUTY CLERK

U.S. DISTRICT COURT
DISTRICT OF UTAH

Dated this 16th day of February, 2005

BY THE COURT:

A handwritten signature in cursive script, reading "Dee Benson", written over a horizontal line.

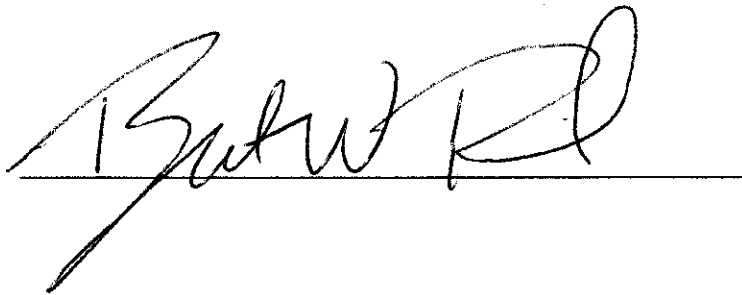
Judge Dee Benson
United States District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing **ORDER TO EXTEND
MEDIATION PERIOD** first class mail, postage prepaid, on the following:

Todd E. Zenger
KIRTON & MCKONKIE
1800 Eagle Gate Tower
60 E. South Temple Street
Salt Lake City, UT 84111

on this 15 day of February, 2005.

A handwritten signature in black ink, appearing to read "Butch R. D.", is written over a horizontal line.

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:00-cv-00945

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Todd E Zenger, Esq.
KIRTON & MCCONKIE
60 E S TEMPLE STE 1800
SALT LAKE CITY, UT 84111-1004
EMAIL

Mr. Denver C. Snuffer Jr., Esq.
NELSON SNUFFER DAHLE & POULSEN
10885 S STATE ST
SANDY, UT 84070
JFAX 9,5761960

Joseph Jardine (8889)
Jardine Law Offices
39 Exchange Place, Suite 100
Salt Lake City, Utah 84111
Tel: 801/350-3506
Fax: 801/746-3508

RECEIVED FILED
CLERK CLERK
FEB 14 2005 17 A 9 38
U.S. DISTRICT COURT
BY: DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ELEAZAR PARRA,

Defendant.

**ORDER EXTENDING CUTOFF
FOR ENTRY OF PLEA**

Case No. 2:04-CR-125 DB

Judge Dee Benson

The Court, having considered the defendant's motion to extend cutoff for entry of plea, and good cause showing, hereby grants it. The new cutoff date for entry of plea is the 28th day of March, 2005.

IT IS SO ORDERED this 16th day of February, 2005.

BY THE COURT

Dee Benson

The Honorable Dee Benson
District Court Judge

49

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00125

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Clark A Harms, Esq.
SALT LAKE COUNTY DISTRICT ATTORNEY'S OFFICE
111 E BROADWAY STE 400
SALT LAKE CITY, UT 84111
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Lee C. Rasmussen, Esq.
RASMUSSEN MINER & ASSOCIATES
42 EXCHANGE PLACE
SALT LAKE CITY, UT 84111
EMAIL

Joseph Jardine, Esq.
JARDINE LAW OFFICES
39 EXCHANGE PLACE STE 100
SALT LAKE CITY, UT 84111
JFAX 9,7463508

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

Jonathan A. Dibble (0881)
Keith A. Kelly (4784)
N. Aaron Murdock (8767)
Gregory S. Roberts (9092)
RAY QUINNEY & NEBEKER
36 South State Street, Suite 1400
Salt Lake City, Utah 84111
Telephone: (801) 532-1500
Facsimile: (801) 532-7543

Gregory J. Kerwin (admission pro hac vice)
Taggart Hansen (admission pro hac vice)
GIBSON, DUNN & CRUTCHER LLP
1801 California Street, Suite 4100
Denver, Colorado 08202
Telephone: (303) 298-5700
Facsimile: (303) 313-2829

*Attorneys for Plaintiffs Flying J Inc.,
and TON Services, Inc.*

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 17 A 9:40
RECEIVED CLERK
FEB - 4 2005
U.S. DISTRICT COURT
FEB 04 2005
OFFICE OF JUDGE
DAVID SAM

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FLYING J INC., a Utah corporation, and TON
SERVICES, INC., a Utah corporation,

Plaintiffs,

v.

TA OPERATING CORPORATION d/b/a/
TRAVELCENTERS OF AMERICA, a
Delaware corporation, V-LINK SOLUTIONS,
INC., a Florida corporation, and JOHN DOES
I-X,

Defendants.

**ORDER GRANTING LEAVE TO
DEPOSE DECLARANT BRIAN
MATHISON AND TO EXTEND TIME
WITHIN WHICH TO RESPOND TO
DEFENDANT V-LINK SOLUTIONS,
INC.'S MOTION TO DISMISS**

Civil No. 1:04CV00177

Judge David Sam

24

Based upon the Stipulation of the parties and for good cause appearing,
The Plaintiffs may take the deposition of Brian Mathison and may have fifteen days after the
deposition in which to respond to V-Link's Motion to Dismiss.

DATED this 16th day of February, 2005.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "David Sam", is written over a horizontal line.

David Sam
U.S. District Court

United States District Court
for the
District of Utah
February 17, 2005

kvs

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00177

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. Jonathan A. Dibble, Esq.
RAY QUINNEY & NEBEKER
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PO BOX 45385
SALT LAKE CITY, UT 84145-0385
EMAIL

Taggart Hansen, Esq.
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DENVER, CO 80202-2694

Gregory J. Kerwin, Esq.
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1801 CALIFORNIA ST STE 4200
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Stephen J. Hill, Esq.
185 S ST ST STE 1300
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JFAX 9,5327750

Paul J. Lane, Esq.
V-LINK SOLUTIONS
2755 E OAKLAND PK BLVD STE 300
FT LAUDERDALE, FL 33306

HOLME ROBERTS & OWEN LLP
Blaine Benard (5661)
Greggory J. Savage (5988)
Eric G. Maxfield (8668)
299 South Main Street, Suite 1800
Salt Lake City, Utah 84111-2263
(801) 521-5800

Counsel for Third-Party Plaintiff Consonus, Inc.

RECEIVED CLERK A 9 40

FEB -7 2005

U.S. DISTRICT COURT

RECEIVED

FEB 08 2005

CLERK OF COURT
DAVID SAM

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SAFEWAY, INC.,

Plaintiff,

vs.

CONSONUS, INC., et al.,

Defendants.

**ORDER DISMISSING THIRD-PARTY
DEFENDANT NCR CORPORATION**

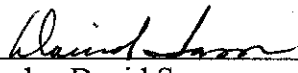
Civil Action No.: 2:02 CV 1216

Judge David Sam

Pursuant to notice given by Third-Party Plaintiffs EFT Architects, Inc., Colvin Engineering Associates, Inc., and Dunn Associates, Inc. (collectively the "Design Team"), Consonus, Inc., and Alarm Control Company, and pursuant to Federal Rule of Civil Procedure 41(a)(1)(i), IT IS HEREBY ORDERED that Third-Party Defendant NCR Corporation is dismissed without prejudice from this action.

DATED this 16th day of February, 2005.

BY THE COURT:



Judge David Sam
U.S. District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of February, 2005, I served a true and correct copy of the foregoing **ORDER DISMISSING THIRD-PARTY DEFENDANT NCR CORPORATION** in the manner and upon those addressed below:

<input checked="" type="checkbox"/>	U.S. Mail, postage prepaid	John L. Young
<input type="checkbox"/>	Hand Delivery	Young, Adams & Hoffman LLP
<input type="checkbox"/>	Facsimile	170 South Main Street, Suite 1125
<input type="checkbox"/>	Overnight courier	Salt Lake City, Utah 84101-1605
		<i>Attorneys for CCI Mechanical, Inc</i>
<input checked="" type="checkbox"/>	U.S. Mail, postage prepaid	John N. Braithwaite
<input type="checkbox"/>	Hand Delivery	David N. Sonnenreich
<input type="checkbox"/>	Facsimile	Plant, Christensen & Kanell
<input type="checkbox"/>	Overnight courier	136 East South Temple, Suite 1700
		Salt Lake City, Utah 84111
		<i>Attorneys for Alarm Control Company</i>
<input checked="" type="checkbox"/>	U.S. Mail, postage prepaid	Douglas H. Patton
<input type="checkbox"/>	Hand Delivery	Edward B. Havas
<input type="checkbox"/>	Facsimile	Dewsnup, King & Olsen
<input type="checkbox"/>	Overnight courier	36 South State, #2020
		Salt Lake City, Utah 84111
		<i>Attorneys for Safeway, Inc</i>
<input checked="" type="checkbox"/>	U.S. Mail, postage prepaid	Alan C. Bradshaw
<input type="checkbox"/>	Hand Delivery	Manning Curtis Bradshaw & Bednar, LLC
<input type="checkbox"/>	Facsimile	Third Floor Newhouse Building
<input type="checkbox"/>	Overnight courier	10 Exchange Place
		Salt Lake City, Utah 84111
		<i>Attorneys for Ansul, Incorporated</i>
<input checked="" type="checkbox"/>	U.S. Mail, postage prepaid	P. Douglas Folk
<input type="checkbox"/>	Hand Delivery	Benjamin L. Hodgson
<input type="checkbox"/>	Facsimile	Christopher D.C. Hossack
<input type="checkbox"/>	Overnight courier	Folk & Associates, P.C.
		One Columbus Plaza, Suite 600
		3636 North Central Avenue
		Phoenix, Arizona 85012
		<i>Attorneys for EFT Architects, Inc., Dunn Associates, Inc. and Colvin Engineering Associates, Inc.</i>

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Facsimile
☐ Overnight courier

Justin Toth
Ray, Quinney & Nebeker
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, Utah 84145-0385
*Attorneys for EFT Architects, Inc., Dunn
Associates, Inc. and Colvin Engineering
Associates, Inc.*

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Facsimile
☐ Overnight courier

Stephen J. Trayner
Peter C. Schofield
Strong & Hanni, P.C.
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Salt Lake City, Utah 84180
Attorneys for Union Pointe Construction Corp.

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Facsimile
☐ Overnight courier

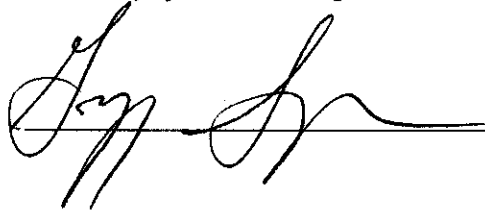
Michael F. Skolnick
Kipp & Christian
10 Exchange Place, Fourth Floor
Salt Lake City, Utah 84111
Attorneys for Dunn Associates, Inc.

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☐ Hand Delivery
☐ Facsimile
☐ Overnight courier

J. Stan Sexton
Erick J. Roeder
Shook, Hardy & Bacon, L.L.P.
2555 Grand Boulevard
Kansas City, MO 64108-2613
Attorneys for Ansul, Incorporated

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☐ Facsimile
☐ Overnight courier

John J. Haggerty
Ulmer & Berne LLP
Penton Media Building
1300 East Ninth Street, Suite 900
Cleveland, OH 44114
Attorneys for NCR Corporation



United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-01216

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. John N Braithwaite, Esq.
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FOLK & ASSOCIATES

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SALT LAKE CITY, UT 84101
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PARR WADDOUPS BROWN GEE & LOVELESS
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PO BOX 11019
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SHOOK HARDY & BACON LLP
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KANSAS CITY, MO 64108-2613

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SHOOK HARDY & BACON LLP
2555 GRAND BLVD
KANSAS CITY, MO 64108-2613

Erick J. Roeder, Esq.
SHOOK HARDY & BACON LLP
2555 GRAND BLVD
KANSAS CITY, MO 64108-2613

Jeff R. Scurlock, Esq.
SHOOK HARDY & BACON LLP
2555 GRAND BLVD
KANSAS CITY, MO 64108-2613

Mr. Alan C. Bradshaw, Esq.
MANNING CURTIS BRADSHAW & BEDNAR LLC
THIRD FLOOR NEWHOUSE BLDG
10 EXCHANGE PL
SALT LAKE CITY, UT 84111
EMAIL

United States District Court

CENTRAL DISTRICT OF UTAH

UNITED STATES OF AMERICA

ORDER OF DETENTION PENDING TRIAL

v.

FRANKLIN STOKES

Case Number:

2:04-CR-818 DKW

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I - Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a (federal offense) (state or local offense) that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- ☐ a crime of violence as defined in 18 U.S.C. §3156(a)(4)
- ☐ an offense for which the maximum sentence is life imprisonment or death
- ☐ an offense for which the maximum term of imprisonment of ten years or more is prescribed in _____

☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses

- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense
- ☐ (3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternate Findings (A)

- ☐ (1) There is probable cause to believe that the defendant has committed an offense
- ☐ for which a maximum term of imprisonment of ten years or more prescribed in _____
- ☐ under 18 U.S.C. §924(c)
- ☐ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternate Findings (B)

- ☐ (1) There is a serious risk that the defendant will not appear.
- ☒ (2) There is a serious risk that the defendant will endanger the safety of another person or the community

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by (clear and convincing evidence) (a preponderance of the evidence) that

PRIOR CRIMINAL HISTORY

FACTS OF THE CASE

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: February 17, 2005

Samuel Albaladejo
Signature of Judicial Officer

CHIEF MAGISTRATE JUDGE SAMUEL ALBALADEJO

Name and Title of Judicial Officer

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. §801 et seq); (b) Controlled Substances Import and Export Act (21 U.S.C. §893 et seq); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. §955a).

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00818

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Trina A Higgins, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

A. Chelsea Koch, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

STEVEN B. KILLPACK, Federal Defender (#1808)
L. CLARK DONALDSON, Assistant Federal Defender (#4822)
UTAH FEDERAL DEFENDER OFFICE
Attorney for Defendant
46 West Broadway, Suite 110
Salt Lake City, Utah 84101
Telephone: (801) 524-4010
Facsimile: (801) 524-4060

FILED
CLERK
FEB 14 2005
BY: *[Signature]*
DEPUTY CLERK

RECEIVED
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FEB 16 2005
SAMUEL ALDA
U.S. MAGISTRATE
U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRADLEY BEN ZOBELL,

Defendant.

**ORDER GRANTING LEAVE TO
WITHDRAW AS COUNSEL**

Case No. 2:03CR760DB

Chief Magistrate Judge Samuel Alba

Based on motion of the defendant and good cause shown;

It is hereby ORDERED that L. Clark Donaldson, Assistant Utah Federal Defender, is hereby granted leave to withdraw as counsel of record for Defendant.

Dated this 16th day of February, 2005.

BY THE COURT:

[Signature of Samuel Alba]

HONORABLE SAMUEL ALBA
United States Chief Magistrate Judge

60

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cr-00760

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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US ATTORNEY'S OFFICE

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Mr. Gary H Weight, Esq.
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EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

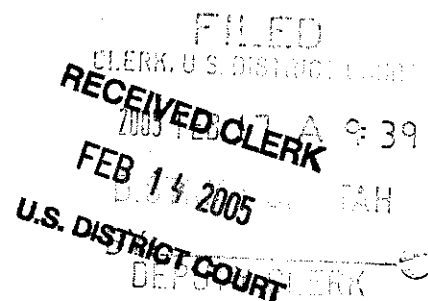
,
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Lee C. Rasmussen, Esq.
RASMUSSEN MINER & ASSOCIATES
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Mr. L. Clark Donaldson, Esq.
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John A. Beckstead (0263)
Brian C. Cheney (8881)
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15 West South Temple, Suite 1200
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Salt Lake City, Utah 84101-1004
Telephone: (801) 257-1900
Facsimile: (801) 257-1800

Attorneys for Plaintiff Summit Financial Resources,
L.P.



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

SUMMIT FINANCIAL RESOURCES, L.P.,
a Hawaii limited partnership,

Plaintiff,

vs.

PENTACLE SPORTS
MANUFACTURING, INC., a California
corporation; and XAVIER J. ANGUIANO,
an individual.

Defendants.

**ORDER OF DISMISSAL OF COMPLAINT
AGAINST DEFENDANTS PENTACLE
SPORTS MANUFACTURING AND
XAVIER J. ANGUIANO
WITHOUT PREJUDICE**

Case No. 04-01043

Judge Dee Benson

Based upon the Notice of Dismissal of Complaint Against Defendants Pentacle Sports Manufacturing and Xavier J. Anguiano Without Prejudice filed by Plaintiff Summit Financial Resources, L.P. pursuant to Federal Rule of Civil Procedure 41(a)(1), and for good cause appearing;

12

IT IS HEREBY ORDERED that the First through Fifth Causes of Action in the Complaint in this action are dismissed in their entirety without prejudice, with each party to bear its costs, expenses and own attorneys' fees incurred relative to this action.

BY THE COURT:

A handwritten signature in black ink, reading "Dee Benson", written over a horizontal line.

Honorable Dee V. Benson
United States District Court Judge

FEBRUARY 17, 2005

CERTIFICATE OF SERVICE

I hereby certify that, on this 14th day of February, 2005, I caused to be mailed, first class, postage prepaid, a true and correct copy of the foregoing ORDER OF DISMISSAL OF COMPLAINT AGAINST DEFENDANTS PENTACLE SPORTS MANUFACTURING AND XAVIER J. ANGUIANO WITHOUT PREJUDICE to the following:

Brian L. Davidoff
Eric Peterson
Rutter Hobbs & Davidoff
1901 Avenue of the Stars, Suite 1700
Los Angeles, CA 90067-6018

A handwritten signature in black ink, appearing to read "B. Davidoff", with a horizontal line extending from the end of the signature.

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01043

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. John A. Beckstead, Esq.
SNELL & WILMER LLP
15 W SOUTH TEMPLE STE 1200
GATEWAY TOWER W
SALT LAKE CITY, UT 84101
EMAIL

Stephen W. Geary, Esq.
KIRTON & MCCONKIE
60 E S TEMPLE STE 1800
SALT LAKE CITY, UT 84111-1004
EMAIL

RECEIVED CLERK

FILED
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

U.S. DISTRICT COURT

PERFORMWORK SYSTEMS, INC.

Plaintiff

v.

EDWARD KRAEMER & SONS, INC.

Defendant.

* CASE NO. 2:05CV86DB

* Appearing on behalf of:

* Plaintiff

* (Plaintiff/Defendant)

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Jeffrey L. Silvestrini, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: Feb 14, 2005

Cohen, Rappaport & Segal, P.C. (Bar No. 2556)
Jeffrey L. Silvestrini 2959
(Signature of Local Counsel) (Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Michael J. Halaiko, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) X a non-resident of the State of Utah or, (ii) a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Jeffrey L. Silvestrini as associate local counsel.

Date: February 8, 2005

Check here X if petitioner is lead counsel.

Michael J. Halaiko
(Signature of Petitioner)

Name of Petitioner: Michael J. Halaiko

Office Telephone: (410) 727-6464

(Area Code and Main Office Number)

Business Address: Miles & Stockbridge P.C.

(Firm/Business Name)

10 Light Street

Street

Baltimore

City

MD

State

21202

Zip

3

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
West Virginia Supreme Court of Appeals	West Virginia	9/29/99
District of Columbia Court of Appeals	District of Columbia	3/10/00
Maryland Court of Appeals	Maryland	6/21/00
U.S. District Court for the Southern District of West Virginia	West Virginia	9/29/99
U.S. District Court for the Northern District of West Virginia	West Virginia	3/23/00
U.S. Court of Appeals for Fourth Circuit		12/20/02
U.S. District Court for the District of Maryland	Maryland	1/21/05

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
------------	-------------	-------------------

(If additional space is needed, attach a separate sheet.)

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 17th day of FEBRUARY, 2005.

Dee Benson
U.S. District Judge

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

FEB 15 2005

PERFORMWORK SYSTEMS, INC.

Plaintiff

U.S. DISTRICT COURT

CASE NO. 2:05CV86DB

v.

EDWARD KRAEMER & SONS, INC.

Defendant.

* Appearing on behalf of:

* Plaintiff

* (Plaintiff/Defendant)

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Jeffrey L. Silvestrini, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date: Feb. 14, 2005

Jeffrey L. Silvestrini (Signature of Local Counsel) (3656) (Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Robert S. Downs, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) X a non-resident of the State of Utah or, (ii) a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Jeffrey L. Silvestrini as associate local counsel.

Date: February 8, 2005

Check here if petitioner is lead counsel.

Robert S. Downs
(Signature of Petitioner)

Name of Petitioner: Robert S. Downs Office Telephone: (410) 727-6464
(Area Code and Main Office Number)

Business Address: Miles & Stockbridge P.C.
(Firm/Business Name)
10 Light Street Baltimore MD 21202
Street City State Zip

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
--------------------------	----------	-------------------

Court of Appeals	Maryland	12/9/82
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U.S. District Court	Maryland	12/17/82
---------------------	----------	----------

Court of Appeals	District of Columbia	12/17/82
------------------	----------------------	----------

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
------------	-------------	-------------------

(If additional space is needed, attach a separate sheet.)

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 17th day of FEBRUARY, 2005.



U.S. District Judge

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cv-00086

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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MILES & STOCKBRIDGE
10 LIGHT ST
BALTIMORE, MD 21202

Robert S. Downs, Esq.
MILES & STOCKBRIDGE
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BALTIMORE, MD 21202

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Central Division for the District of Utah

2005 FEB 17 A 10:14

DISTRICT OF UTAH

BY: *[Signature]*
DEPUTY CLERK

Quinton Smith,

SCHEDULING ORDER

Plaintiff,

Case No. 2:04 CV 1091 DAK

vs.

District Judge Dale A. Kimball

Roland, Inc., et al.,

Defendant.

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ conducted an initial pretrial conference by telephone on Wednesday February 16, 2005. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

1. PRELIMINARY MATTERS

DATE

Nature of claim(s) and any affirmative defenses:

- | | | |
|----|--|----------------|
| a. | Was Rule 26(f)(1) Conference held? | <u>Yes</u> |
| b. | Has Attorney Planning Meeting Form been submitted? | <u>No</u> |
| c. | Was 26(a)(1) initial disclosure completed? | <u>3/11/05</u> |

2. DISCOVERY LIMITATIONS

NUMBER

- | | | |
|----|--|-----------|
| a. | Maximum Number of Depositions by Plaintiff(s) | <u>15</u> |
| b. | Maximum Number of Depositions by Defendant(s) | <u>15</u> |
| c. | Maximum Number of Hours for Each Deposition
(unless extended by agreement of parties) | <u>7</u> |
| d. | Maximum Interrogatories by any Party to any Party | <u>50</u> |
| e. | Maximum requests for admissions by any Party to any Party | |
| f. | Maximum requests for production by any Party to any Party | |

7

DATE

3. AMENDMENT OF PLEADINGS/ADDING PARTIES²

- a. Last Day to File Motion to Amend Pleadings 4/30/05
- b. Last Day to File Motion to Add Parties 4/30/05

4. RULE 26(a)(2) REPORTS FROM EXPERTS³

- a. Plaintiff 6/30/05
- b. Defendant 7/29/05
- c. Counter Reports

5. OTHER DEADLINES

- a. Discovery to be completed by:
 - Fact discovery 12/30/05
 - Expert discovery 12/30/05
- b. *(optional)* Final date for supplementation of disclosures and discovery under Rule 26 (e)
- c. Deadline for filing dispositive or potentially dispositive motions 1/31/06

6. SETTLEMENT/ ALTERNATIVE DISPUTE RESOLUTION

- a. Referral to Court-Annexed Mediation N
- b. Referral to Court-Annexed Arbitration N
- c. Evaluate case for Settlement/ADR on
- d. Settlement probability:

7. TRIAL AND PREPARATION FOR TRIAL:

- a. Rule 26(a)(3) Pretrial Disclosures⁴
 - Plaintiffs 6/23/06
 - Defendants 7/7/06
- b. Objections to Rule 26(a)(3) Disclosures
(if different than 14 days provided in Rule)

			<u>DATE</u>
c.	Special Attorney Conference ⁵ on or before		7/21/06
d.	Settlement Conference ⁶ on or before		7/21/06
e.	Final Pretrial Conference	2:30 pm	8/3/06
f.	Trial	<u>Length</u>	<u>Time</u> <u>Date</u>
	i. Bench Trial	<u>3 days</u>	<u>8:30 am</u> <u>8/14/06</u>
	ii. Jury Trial		

8. OTHER MATTERS:

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 16 day of February, 2005.

BY THE COURT:



David Nuffer
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately referred to that Magistrate Judge. A separate order may refer this case to a Magistrate Judge under DUCivR 72-2 (b) and 28 USC 636 (b)(1)(A) or DUCivR 72-2 (c) and 28 USC 636 (b)(1)(B). The name of any Magistrate Judge to whom the matter is referred under DUCivR 72-2 (b) or (c) should appear on the caption as required under DUCivR10-1(a).
2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).
3. The identity of experts and the subject of their testimony shall be disclosed as soon as an expert is retained or, in the case of an employee-expert, as soon as directed to prepare a report.
4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.
5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.

E:\LAW\IPT\2005\smith v. roland 2 04 cv 1091 021605.wpd

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-01091

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

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FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 16 P 1:57

DISTRICT OF UTAH
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
DEPUTY CLERK
CENTRAL DIVISION

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

4NEXCHANGE, ET AL.,

Defendants.

**ORDER APPROVING FIRST PLAN OF
PARTIAL DISTRIBUTION**

Case No. 2:02CV431DAK

Judge Dale A. Kimball

This matter is before the court on the SEC's proposed First Plan of Partial Distribution ("Plan"). Notice of the proposed Plan and the SEC's motion was sent out to all investors and known creditors at their last known address in July of 2004. They were given until August 13, 2004 to file any oppositions or objections to the Plan. The SEC and any other entity that wished to reply to any objections that were filed had until October 13, 2004 to reply. Donald Storms filed an objection that has since been withdrawn. Robert and Susan Covino have filed an objection, and Dafne E. Cimino has filed a letter stating that she and her father were improperly listed on the List of Winners and should be included on the list of restitution payees. The court held a hearing on the proposed Plan and the objections filed to the Plan on February 10, 2005.¹

¹ The Covinos filed a motion requesting leave to file a sur-reply in support of their objections to the Plan. The Court granted the Covinos' request at the hearing.

At the hearing, the Covinos were represented by James D. Gilson, the Receiver Robert G. Wing represented himself, and the Securities and Exchange Commission was represented by Thomas M. Melton and Karen Martinez. Neither Ms. Cimino nor her counsel appeared at the hearing.

The court has carefully considered the materials submitted by the parties and further considered the law and facts relevant to these motions. Now being fully advised, the court enters the following Order.

BACKGROUND

4NExchange attracted investments of more than \$30 million. Some investors were given returns on their investments. However, those returns were funded from the funds of later investors. Since 4NExchange's assets were frozen by Order of this court and Robert Wing was appointed as Receiver of 4NExchange, the Receiver has recovered approximately \$3.4 million. The net loss in 4NExchange is now valued at \$16,723,721.89. The Receiver has settled with some potential claimants to reduce obligations to the receivership and other claimants have relinquished their claims. The Receiver is also still attempting to liquidate additional funds.

The SEC believes that the Receiver can make a partial distribution of \$542,126.46 on a pro rata basis based on an Investment Analysis prepared by Alan V. Funk. The entirety of the funds in the Receiver's control are not being distributed because the SEC and the Receiver have determined that it is appropriate to segregate certain investors' funds (namely, the Covinos) that may have to be returned in full, pending the outcome of litigation pending before the Tenth Circuit Court of Appeals. These "Funds" that have been segregated could represent a substantial portion of the receivership estate if the Tenth Circuit reverses this court's prior order with respect to the Funds or will not be deemed to be a part of the receivership estate if the Tenth

Circuit affirms this court's prior order.

PROPOSED PLAN

The SEC asserts that the proposed Plan is a fair and equitable remedy in this case. The Plan excludes claims from investors who have a net gain in their 4NExchange investment, investors who have settled their claim with the Receiver, and investors who participated in the fraudulent nature of the operation.

The Plan identifies five classes of claimants: (1) administrative expense claims, (2) taxing authority claims; payroll and non-investor, third-party creditor claims, (4) non-insider investor claims; and (5) claims of individuals and entities that are considered non-participants in the Plan. These classes are also in ordinal priority of payment.

The SEC has determined that it would not be fair or equitable to allow certain investors to participate in the Plan. This list of non-participants is defined to include individuals and entities that were substantially involved in the fraudulent investment scheme of 4NExchange. Insiders include, but are not limited to the owners of 4NExchange, individuals who have materially participated in soliciting investors into 4NExchange with knowledge of the overall activity of 4NExchange and investors whose accounts were legally or substantially controlled by another Insider.

Individuals who have settled their claims with the Receiver are also excluded from participation in the Plan because they no longer have a valid legal claim with the Receiver. Investors who made money with their 4NExchange investments will not be allowed to participate.

The Plan proposes that Class 4 non-insider investors be paid a pro rata distribution based

on the principal amount invested with 4NExchange minus any funds received from 4NExchange. Each Class 4 claimant will share in the distribution based upon the percentage of their net loss as measured against the net loss of all Class 4 claimants. The percentage of principal investment to be returned to the claimant will be applied to the percentage of principal investment to be returned through the Plan. For example, if an investor had received 10% of his or her principal investment back from 4NExchange, that investor would only receive a pro rata distribution from the Plan when it was determined that all investors in Class 4 would receive at least a 10% return of their principal investment including any funds received from 4NExchange and the distribution from the Plan.

As discussed above, the current appeal before the Tenth Circuit may have a substantial impact on the assets of the Receiver. In light of this litigation and the potential for additional litigation and the potential that more assets may be recovered, the Plan provides that the Receiver shall be governed by future Orders of this court with respect to any future distributions.

LEGAL STANDARD

Federal courts have inherent equitable power to issue ancillary relief, including the imposition of a receivership. *SEC v. Wencke*, 622 F.2d 1363, 1369 (9th Cir. 1980).

Disgorgement is an appropriate equitable remedy and within the discretion of the district court to adopt. *SEC v. Patel*, 61 F.3d 137, 139-40 (2d Cir. 1995). The purpose of the disgorgement remedy is not to compensate the victims of fraud; it is to deprive the wrongdoer of his ill-gotten gains. *SEC v. Commonwealth Securities, Inc.*, 574 F.3d 90, 102 (2d Cir. 1978).

Courts have recognized that line drawing must be done in any distribution plan. "This kind of line-drawing – which inevitably leaves out some potential claimants – is, unless

commanded otherwise by the terms of a consent decree, appropriately left to the experience and expertise of the SEC in the first instance.” *SEC v. Wang*, 944 F.2d 80, 87 (2d Cir. 1991).

COVINOS’ OBJECTIONS

The Covinos filed the following objections to the Plan:

A. The Covinos object that the Plan will prejudice them as to the Funds if the Receiver prevails in his appeal. If the Receiver prevails, then the Covinos will be required to return the Funds. If this occurs, the Covinos should be entitled to receive a distribution under the terms of the Plan on account of the Funds.

B. The Covinos should be entitled to a distribution on account of additional deposits they made that are not the subject of the Receiver’s appeal. The Covinos’ additional deposits were made by Robert and Susan Covino on their own behalf and on behalf of their three daughters. These additional deposits total approximately \$370,000. The Covinos did not receive any money from 4NExchange on account of these deposits. The Covinos argue that there is no reason why the Plan should exclude them from receiving a distribution based on these deposits.

C. The Covinos object to having their distribution on account of the additional deposits affected by the outcome of the appeal.

DISCUSSION

The SEC believes that excluding the Covinos from recovery under the Plan is fair and reasonable because they were involved in promoting and selling unregistered investment contracts in 4NExchange. The Covinos are listed in Class 5 of the Plan as “Non-Participants of the Plan.” Under the Plan as proposed, the Covinos would receive no distribution with respect to the additional deposits and, should the Tenth Circuit reverse this court’s order on the eleventh

hour "Funds," the Covinos would receive no distribution with respect to those funds either.

The Covinos' objection premised around a distinction between their additional deposits and their later investments are without foundation because they would receive no distribution for either type of funds if the Tenth Circuit determines that the later funds are a part of the receivership estate. The Plan does not make distinction between the additional deposits and the Funds. Nor does it make a receipt of a distribution on the additional deposits dependent on the Tenth Circuit's ruling. The Plan simply segregates the Funds at issue on appeal because the Funds may not be a part of the receivership estate. In that case, the Funds will remain with the Covinos and they would not be a part of the estate for distribution.

Therefore, the main dispute between the parties focuses on whether the Covinos should be listed as "Non-Participants" based on their involvement with 4NExchange. The SEC, in its discretion, has determined that it is inappropriate to allow the Covinos to participate in the Plan because of their involvement in 4NExchange. The SEC contends that the Covinos participated in the promotion and marketing of unregistered investment contracts in 4NExchange and received credit directly from 4NExchange for bringing in other investors.

Covino assisted Donald Storms in bringing investors into 4NExchange. Covino admits that he held a meeting at his house during which he presented the 4NExchange opportunity to his Emeralds and Sapphires downline in Amway (now known as Quixtar). At the meeting, he outlined performance requirements for participation in 4NExchange. Covino initialed applications for individuals interested in 4NExchange so that Grant and/or Storms would know that they met Storms' criteria.

Before Storms' criteria had been set up, Covino received a referral fee from Paul Grant as

the result of a large investment by Bob Adamo. Covino received a 2% monthly referral fee for Adamo's investment. Melissa Gehring, the office manager for 4NExchange, testified that Covino was earning overrides on the people he introduced from Amway. He originally received overrides on six investors and Paul Grant eventually decreased it to two investors.

The Covinos' contend that the court implicitly rejected the SEC's assertion that the Covinos were involved in promoting 4NExchange in its prior order regarding the last minute funds. The court prior order with respect to the Covinos' Funds did not implicitly find that the Covinos were not involved in the promotion and marketing of 4NExchange. The court's ruling was based solely on the applicable banking regulations and provisions of the Uniform Commercial Code.

The Covinos also assert that the SEC's allegations lack factual support. Although the Covinos certified to the court that they were the largest victims of the 4NExchange scheme, there is evidence from Covino's deposition and the Gehring deposition that supports the SEC's position.

Furthermore, the Covinos contend that it is inappropriate for the SEC to assume the role of the judiciary and unilaterally declare that the Covinos are not entitled to reimbursement. However, the SEC has merely proposed the Plan for the court's approval, has provided documentation to support its factual allegations, and provided the Covinos with an adequate framework in which to file an objection and response. The SEC has not proceeded inappropriately.

The Covinos also claim that they are entitled to due process and an evidentiary hearing on their objections. Due process requires notice and an opportunity to be heard. *Cleveland Bd.*

of Education v. Loudermill, 470 U.S. 532, 542 (1985). In *S.E.C. v. Elliott*, 953 F.2d 1560 (11th Cir. 1992), relied on by the Covinos, the court determined that rather than set forth objections on a blank form sent by the Receiver, the claimants should be entitled to a hearing where they could present and argue their facts. *Id.* at 953 F.2d 1560.

However, in this case, when the Covinos filed their sur-reply, they had an opportunity to respond to the SEC's allegations and could have presented additional declarations or documents supporting their position or contradicting the SEC's allegations. The Covinos have not denied that they received overrides or referral fees directly from 4NExchange. The Covinos argue that they did not take this as cash, but, instead used it as a credit and reinvested it into 4NExchange. The court finds this a distinction without a difference. Because there is no dispute regarding whether the Covinos received some sort of credit for their actions in bringing investors into 4NExchange, the court concludes there is no need for an evidentiary hearing.

Therefore, the court concludes that the SEC's determination to include the Covinos in Category 5 as "Non-Participants" is reasonable and fair given that lines must be drawn in all plans of distribution. The court finds no error in drawing the line with individuals who have received credit for bringing others into the investment scheme. This exclusion maximizes the return to more deserving investors. The court finds the SEC's Plan fair and equitable.

DAFNE CIMINO'S OBJECTION

Dafne Cimino submitted a letter stating that she is the joint owner of an account with her father, Francisco Escalante, and that he was incorrectly listed in the List of Winners. The Receiver addressed this objection at the hearing. According to his information, Escalante received a \$2,500 distribution from 4NExchange after investing \$25,000. Dafne Cimino

received a \$57,000 distribution after investing \$100,000. Because they are joint owners, the investments and distributions would be pooled together under the Plan. Therefore, they invested \$125,000 and receiving distributions of \$59,500. It appears that their objections to being classified as "Winners" is warranted because they are not "Winners" as defined by the Plan.

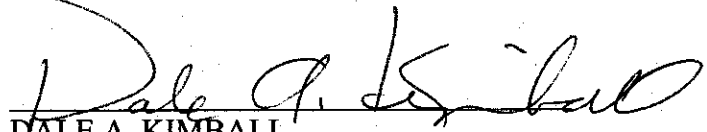
However, the distributions for Class 4 investors under this initial Plan is set at ten percent. Because Cimino and Escalante received more than a ten percent distribution from 4NExchange they would not receive a distribution under the Plan. Depending on the distribution levels of future distribution plans, they could participate if the percentage return reaches their level.

CONCLUSION

Based on the above reasoning, the SEC's proposed First Plan of Partial Distribution is APPROVED, with the exception that Francisco Escalante should be taken off of the list of winners and included jointly with Dafne Cimino on the List of Restitution Payees.

DATED this 16th day of February, 2005.

BY THE COURT:



DALE A. KIMBALL

United States District Judge

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-00431

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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BENDINGER, CROCKETT, PETERSON,

GREENWOOD & CASEY, PC

Evelyn J. Furse (8952)

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Attorneys for Defendant Fidelity

Investments Institutional

Operations Company, Inc.

FILED

CLERK, U.S. DISTRICT COURT

2005 FEB 16 P 1:57

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

RECEIVED CLERK

FEB 15 2005

U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

RICH HANNON,

Plaintiff,

vs.

SIEMENS CORPORATION; SIEMENS
SAVINGS PLAN, fka PYRAMID
TECHNOLOGY CORPORATION 401(k)
PLAN; HEWITT ASSOCIATES, L.L.C.; and
FIDELITY INVESTMENTS INSTITUTIONAL
SERVICES COMPANY, INC.,

Defendants.

**~~PROPOSED~~ ORDER TO
EXTEND TIME**

Civil No. 2:04CV00666DAK
Judge Dale A. Kimball


Based upon the Stipulation to Extend Time submitted by Fidelity Investments
Institutional Operations Company, Inc. ("Fidelity"), THIS COURT HEREBY ORDERS AS
FOLLOWS:

Fidelity shall have to and including March 8, 2005 in which to file its responsive pleading
to the Amended Complaint.

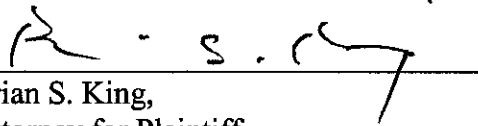
19

DATED this 16th day of February, 2005.

BY THE COURT:

By 
Honorable Dale A. Kimball
District Court Judge

Approved as to form:

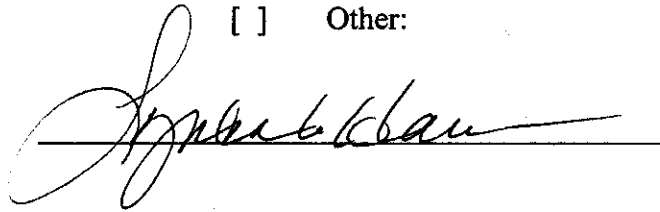

Brian S. King,
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this 15 day of February, 2005, a true and correct copy of the foregoing [Proposed] Order to Extend Time was served upon the person(s) named below, at the address set out below their name, either by mailing postage prepaid, hand-delivery, Federal Express or by telecopying to them.

Brian S. King
336 South 300 East, Suite 200
Salt Lake City, UT 84111

☒ U.S. Mail
☐ Federal Express
☒ Hand-Delivery
☐ Telefacsimile
☐ Other:

A handwritten signature in cursive script, appearing to read "Lynette K. Kavan", is written over a horizontal line.

blk

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00666

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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Counsel for Plaintiff

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 16 P 1:56

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

RECEIVED CLERK

FEB 15 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF UTAH

UTAH ENVIRONMENTAL
CONGRESS,

Plaintiff,

vs.

DALE BOSWORTH, as Chief of the
Forest Service; UNITED STATES
FOREST SERVICE; MARY
ERICKSON, as Supervisor of the
Fishlake National Forest; and D. FRED
HOUSTON JR., Richfield District Ranger,

Defendants.

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~~PROPOSED~~ ORDER

Case No. 2:04CV00643DAK

Judge Dale A Kimball

Based on the foregoing motion and good cause appearing therefore, it is
HEREBY ORDERED that plaintiff's motion for leave to file an overlength memorandum
is granted.

Dated this 16th day of February 2005.

BY THE COURT:


HON. DALE KIMBALL

United States District Judge

30

CERTIFICATE OF SERVICE

I hereby certify that I have had delivered via U.S. mail, a copy of the foregoing document, to the Defendant's counsel, as listed below, on this the _____ day of _____ 2004.

OF COUNSEL

Via U.S. Mail
John Mangum
U.S. Attorney's Office
185 South State St., #400
Salt Lake City, Ut. 84111

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00643

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Joel Ban, Esq.
WILDLAW SOUTHWEST
1817 S MAIN #10
SALT LAKE CITY, UT 84115

Mr. James L. Mouritsen, Esq.
GREGORY BARTON & SWAPP
2975 W EXECUTIVE PKWY STE 300
LEHI, UT 84043-9627
EMAIL

Mr. John K Mangum, Esq.
US ATTORNEY'S OFFICE
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 15 P 1:57

DISTRICT OF UTAH

BY:
DEPUTY CLERK

RECEIVED CLERK

FEB 15 2005

U.S. DISTRICT COURT

James D. Garrett, #6091
GARRETT & GARRETT
2091 East 1300 South, Suite 201
Salt Lake City, Utah 84108
Telephone: (801) 581-1144

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SOMCITH VONGSARAVANH &
CHAMROEUN KEO,

Defendants.

ORDER TO CONTINUE TRIAL

Case No.: 2:04CR00664 DAK

Judge: Dale A. Kimball

Based upon the Defendant's Motion to Continue Trial and the reasons stated therein, it is Ordered that the trial scheduled in this matter on February 28, 2005 is continued until April 25, 2005 at 8:30 a.m.

The Court finds that failure to grant this continuance would unreasonably deny the Defendant the opportunity to proceed in discovery matters to be undertaken by counsel.

The Court finds that these interests outweigh the best interest of the public and the Defendant in a speedy trial, and therefore this time shall be excluded from the time allowed for trial under the Speedy Trial Act, 18 U.S.C. § 3161.

DATED this 16th day of February, 2005.

BY THE COURT:

Dale A. Kimball
DALE KIMBALL

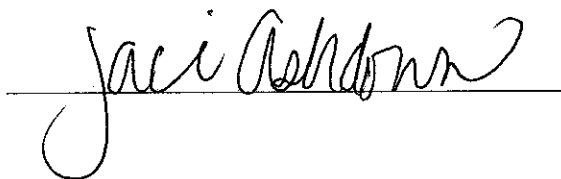
United State District Judge

30

CERTIFICATE OF MAILING

I hereby certify that on this 11 day of February, 2005, I mailed a true and correct copy of the foregoing ORDER TO CONTINUE TRIAL, postage pre-paid to the following:

David F. Backman
Assistant United States Attorney
185 South State Street, Suite 400
Salt Lake City, Utah 84111

A handwritten signature in cursive script, reading "Jaci Ashdown", is written over a horizontal line.

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00664

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David F. Backman, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. Richard G MacDougall, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

Henri R. Sisneros, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL


Mr. James D. Garrett, Esq.
2091 E 1300 S STE 201
SALT LAKE CITY, UT 84108
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

United States District Court

Central Division for the District of Utah

FILED
CLERK, U.S. DISTRICT COURT
DISTRICT OF UTAH
BY: 
DEPUTY CLERK

Jon C. Martinson

v.

JUDGMENT IN A CIVIL CASE

Fortis Benefits Insurance Company

Case Number: 2:04cv560 DAK

This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

that judgment be entered in favor of the defendant and plaintiff's cause of action is dismissed with prejudice in its entirety. Each party is to bear its own costs.

Entered on docket
2-17-05 by:

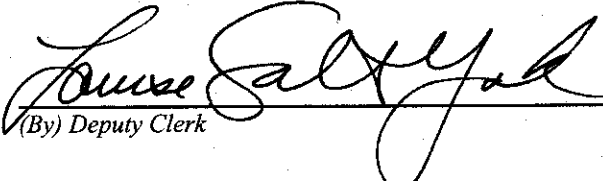

Deputy Clerk

February 16, 2005

Date

Markus B. Zimmer

Clerk


(By) Deputy Clerk

21

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00560

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Scott M. Petersen, Esq.
FABIAN & CLENDENIN
215 S STATE STE 1200
PO BOX 510210
SALT LAKE CITY, UT 84151
EMAIL

Mark A. Riekhof, Esq.
DUNN & DUNN
505 E 200 S 2ND FL
SALT LAKE CITY, UT 84102
EMAIL

Joshua Bachrach, Esq.
RAWLE & HENDERSON
WIDENER BLDG
ONE S PENN SQ
PHILADELPHIA, PA 19107
EMAIL

United States Probation Office
for the District of Utah

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 16 P 8:22

Report on Offender Under Supervision

Name of Offender: **Clint Christensen**

Docket Number: **2:02-CR-00323-001-DAK**

Name of Sentencing Judicial Officer: **Honorable Dale A. Kimball**

United States District Judge

Date of Original Sentence: **September 10, 2003**

Original Offense: **Making, Uttering, or Possessing a Counterfeit or Forged Security**

Original Sentence: **10 Months BOP Custody/36 Months Supervised Release**

Type of Supervision: **Supervised Release**

Supervision Began: **December 16, 2003**

SUPERVISION SUMMARY

The probation office respectfully requests the Court's consideration in vacating the defendant's special condition of maintaining full-time employment or participating in academic or vocational development. Mr. Christensen has ongoing medical problems with his neck and has undergone one surgery in June 2004. He is still under doctor observation and is being prescribed medications. In review of his doctor's notes, it was the doctor's opinion that Mr. Christensen would not be able to work due to his medical conditions, his illiteracy, and his mental disabilities.

Mr. Christensen has been compliant with his terms of supervision, has submitted no positive urinalysis tests for illicit drug use, and has maintained contact with his United States Probation Officer. He has been making average monthly payments of \$50 per month toward his court-ordered financial obligations using monies from his state assistance funding.

If the Court desires more information or another course of action, please contact me at (801) 975-3400, extension 6620.

I declare under penalty of perjury that the foregoing is true and correct

Theresa Del Casale-Merino

Theresa Del Casale-Merino
U.S. Probation Officer
Date: February 15, 2005

THE COURT:

- ☒ Approves the request noted above
☐ Denies the request noted above
☐ Other

Dale A. Kimball
Honorable Dale A. Kimball
United States District Judge

Date: February 16, 2005 25

blk

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cr-00323

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Mr. Mark K Vincent, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

RECEIVED CLERK

FEB 15 2005

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 16 P 5:22

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

-VS-

GIOVANI PALMA-ABARCA,

Defendant.

ORDER CONTINUING SENTENCING

Case No. 2:04CR630 DAK

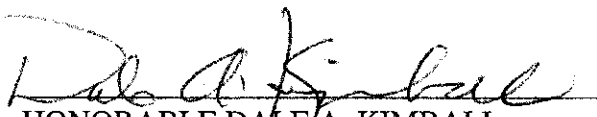
Based on the motion filed by the defendant and good cause appearing,

IT IS HEREBY ORDERED the sentencing be continued until the 24th day of

March, 2005 at 3:00 ~~a~~/p.m.

DATED this 16th day of February, 2005.

BY THE COURT:



HONORABLE DALE A. KIMBALL

United States District Court Judge

17

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00630

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Mr. William L Nixon, Esq.
US ATTORNEY'S OFFICE

/
EMAIL

Viviana Ramirez, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

/
EMAIL

US Probation
DISTRICT OF UTAH

/
EMAIL

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 16 P 6:22

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARIO DELEON,

Defendants.

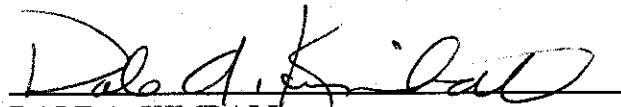
ORDER

Case No. 2:04CR110 DAK

This matter is before the court on Defendant's "Motion to Sever Defendant Mario DeLeon, Request for Trial Separate from Miguel Zavala." The court has reviewed the motion and supporting memorandum. The court, however, declines to grant the motion. The trial of this matter will proceed against both Defendants.

DATED this 16th day of February, 2005.

BY THE COURT:



DALE A. KIMBALL
United States District Judge

44

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00110

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Colleen K. Coebergh, Esq.
29 S STATE ST #007
SALT LAKE CITY, UT 84111
EMAIL

Mr. James A Valdez, Esq.
466 S 400 E #102
SALT LAKE CITY, UT 84111
EMAIL

Robert K. Hunt, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH

EMAIL

US Probation
DISTRICT OF UTAH

EMAIL

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
PROBATION AND PRETRIAL SERVICES OFFICE**

Memorandum

DATE: January 27, 2005

TO: Honorable David K. Winder
Senior United States District Judge

FROM: Richard G. Law,
United States Probation Officer

SUBJECT: PAISOLA, Robert Henry
Dkt. No. 2:97-CR-00222-001-W
REQUEST FOR RELEASE OF PRESENTENCE REPORT

On July 17, 1998, the Court sentenced the defendant to serve 18 months confinement followed by a 36-month term of supervised release for Possession of Child Pornography, in violation of 18 U.S.C. § 2252. The defendant was ordered to participate in a mental health treatment program under a co-payment plan, as directed by the United States Probation Office. The defendant is currently participating in mental health treatment with Dr. Nancy Foster at Comprehensive Psychological Services. Dr. Foster has requested a copy of the defendant's presentence report to use in the defendant's mental health assessment and treatment.

Please signify below the Court's approval or denial of this request. If Your Honor has any questions or needs additional information, please contact me at (801) 975-3400, extension 2525.

☒ approved ☐ denied

Dated this 17 day of Feb., 2005.

David K. Winder
Honorable David K. Winder
Senior United States District Judge

73

jmr

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:97-cr-00222

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Mr. Richard N Lambert, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

UNITED STATES OF AMERICA

Plaintiff(s),

vs.

LISA GARRETT MICKELSEN

Defendant(s).

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

FEB 15 2005

Case No. 2:05-CR-70 TC

MARKUS B. ZIMMER, CLERK
BY _____
DEPUTY CLERK

ORDER APPOINTING COUNSEL


The defendant, LISA GARRETT MICKELSEN requested the appointment of counsel on 2/15/05, and at that time the court determined the defendant qualified for the appointment of counsel under 18 USC § 3006A.

Therefore,

IT IS HEREBY ORDERED the Federal Public Defender, for the District of Utah, is appointed to represent the above named defendant in this matter.

DATED this 15th day of February, 2005.

BY THE COURT:


Samuel Alba
Chief Magistrate Judge

9

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cr-00070

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Samuel J. Schmidt, Esq.
USPS WESTERN AREA LAW OFFICE
9350 S 150 E #800
SANDY, UT 84070-2716
EMAIL

Mr. Kirk C. Lusty, Esq.
US POSTAL SERVICE
LAW DEPT WE AREA
9350 S 150 E #800
SANDY, UT 84070-2702
EMAIL

Jamie Zenger, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

United States District Court

CENTRAL DISTRICT OF UTAH

UNITED STATES OF AMERICA

ORDER OF DETENTION PENDING TRIAL

v.

LISA MICKELSEN

Case Number:

2:05-CR-70 TC

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following factors require the detention of the defendant pending trial in this case.

Part I - Findings of Fact

- ☐ (1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a federal offense (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- ☐ a crime of violence as defined in 18 U.S.C. §3156(a)(4)
- ☐ an offense for which the maximum sentence is life imprisonment or death
- ☐ an offense for which the maximum term of imprisonment of ten years or more is prescribed in _____

FILED IN UNITED STATES DISTRICT COURT DISTRICT OF UTAH
FEB 17 2005
MARKUS B. ZIMMER, CLERK
BY _____ DEPUTY CLERK

- ☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses
- ☐ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense
- ☐ (3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding (1).
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an) other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternate Findings (A)

- ☐ (1) There is probable cause to believe that the defendant has committed an offense
- ☐ for which a maximum term of imprisonment of ten years or more prescribed in _____
- ☐ under 18 U.S.C. §924(c)
- ☐ (2) The defendant has not rebutted the presumption established by finding I that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternate Findings (B)

- ☒ (1) There is a serious risk that the defendant will not appear.
- ☒ (2) There is a serious risk that the defendant will endanger the safety of another person or the community

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by (clear and convincing evidence) (a preponderance of the evidence) that

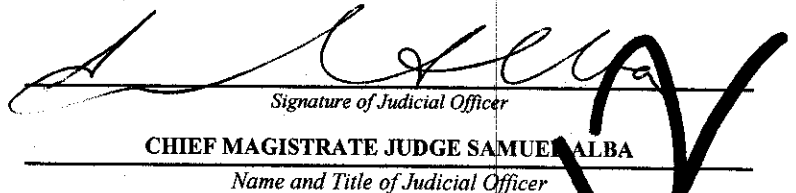
PRIOR CRIMINAL HISTORY

HISTORY OF FAILING TO APPEAR

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Dated: February 17, 2005


Signature of Judicial Officer
CHIEF MAGISTRATE JUDGE SAMUEL ALBA
Name and Title of Judicial Officer

*Insert as applicable: (a) Controlled Substances Act (21 U.S.C. §801 et seq); (b) Controlled Substances Import and Export Act (21 U.S.C. §951 et seq); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. §955a).

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:05-cr-00070

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Samuel J. Schmidt, Esq.
USPS WESTERN AREA LAW OFFICE
9350 S 150 E #800
SANDY, UT 84070-2716
EMAIL

Mr. Kirk C. Lusty, Esq.
US POSTAL SERVICE
LAW DEPT WE AREA
9350 S 150 E #800
SANDY, UT 84070-2702
EMAIL

Jamie Zenger, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
/
EMAIL

US Probation
DISTRICT OF UTAH
/
EMAIL

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff,</p> <p>vs.</p> <p>SALVADOR DURAN, aka SALVADOR DURAN LOPEZ,</p> <p>Defendant.</p>	<div>FILED CLERK, U.S. DISTRICT COURT February 17, 2005 (11:55am) DISTRICT OF UTAH</div> <div>REVISED MEMORANDUM OPINION AND ORDER FINDING THE GUIDELINES ARE ADVISORY UNDER THE “SAFETY VALVE” PROVISION</div> <div>Case No. 2:04-CR-00396 PGC</div>
--	---

Defendant Salvador Duran stands before the court for sentencing. He previously pled guilty to possession with the intent to distribute more than 50 grams of actual methamphetamine – an offense carrying a ten-year mandatory minimum prison sentence. Mr. Duran, however, qualifies for the “safety valve” provision,¹ which allows the court to impose a sentence below the mandatory minimum. The safety valve provision further directs the court to impose any lower sentence “pursuant to” the Guidelines.

¹ See 18 U.S.C. § 3553(f); U.S.S.G. § 5C1.2.

The government argues that even though the Guidelines have been generally rendered advisory under *United States v. Booker*,² the Guidelines nonetheless remain mandatory when the court proceeds under the safety valve. This argument is unpersuasive. *Booker* held that the judicial fact finding inherent in mandatory Guidelines violated the defendant's Sixth Amendment right to a jury trial. That constitutional defect also exists when a court uses the Guidelines to determine a safety valve sentence. Accordingly, to avoid a constitutional defect in the safety valve provision, the Guidelines must be deemed as advisory when the court proceeds under this provision. Therefore, the court will sentence defendant Duran under an advisory Guidelines system.

The Safety Valve Provision

The safety valve provision – 18 U.S.C. § 3553(f) – allows a court to impose a sentence below any mandatory minimum for a drug offense if five criteria are satisfied: (1) the defendant is a first-time offender, (2) he did not use violence or firearms, (3) the offense did not result in serious injury to anyone, (4) the defendant was not an organizer, leader, manager, or supervisor in the offense, and (5) the defendant has given the government all the information that he has regarding the offense. Under the safety valve provision, if the defendant satisfies the five criteria listed above, the court is then directed to impose a Guidelines sentence. The statute states, if the safety valve is met, “the court *shall* impose a sentence *pursuant to* the guidelines promulgated by the United States Sentencing Commission . . . without regard to any statutory minimum sentence”³ This statute

² 125 S.Ct. 738 (Jan. 12, 2005).

³ 18 U.S.C. § 3553(f) (emphases added).

might be read as requiring the court to impose a Guidelines sentence.⁴ Indeed, in this case the government argues that the court *must* follow the Guidelines and impose a sentence no lower than the Guidelines sentence. Because both sides agree that the applicable Guidelines range in this case is 87-108 months,⁵ the government contends that the court lacks any discretion to impose anything less than an 87-month sentence.

The “Advisory” Nature of the Guidelines After *Booker*

The government’s position is creative and skillfully argued. It founders, however, on the fact that the Guidelines themselves are now advisory. In *United States v. Booker*, the Supreme Court found certain provisions of the Sentencing Guidelines unconstitutional.⁶ Specifically, *Booker* held that the Guidelines violated the defendant’s Sixth Amendment right to a jury trial by requiring a judge to find facts that resulted in a legally-required lengthier sentence for the defendant.⁷ *Booker* then turned to the issue of the remedy for this constitutional defect. In the remedial portion of its opinion, the Court held that by severing the two provisions in the Act that make the Guidelines mandatory, the rest of the sentencing scheme could be preserved.⁸ The Court explained that severing

⁴ See *United States v. Roman-Zarate*, 115 F.3d 778, 784 (10th Cir. 1997) (“Title 18 U.S.C. 3553(f) requires the district court to sentence a defendant according to the sentencing guidelines, rather than imposing the statutory mandatory minimum sentence . . .”).

⁵ See Pre-Sentence Report, ¶ 48, Offense Range of 29, Criminal History of 1.

⁶ See *Booker*, 125 S. Ct. at 754.

⁷ See *id.* at 756.

⁸ See *id.*

these provisions “makes the Guidelines effectively advisory,”⁹ thereby eliminating the constitutional problem stemming from the legally binding nature of the judicially-determined facts. The upshot of these holdings, as this court recently explained in *United States v. Wilson*, is that district courts should give “considerable weight” to the Guidelines “in determining what sentence to impose,” but are not required to follow the Guidelines.¹⁰

The advisory Guidelines are not transformed into mandatory Guidelines under the safety valve provision. To the contrary, that provision itself directs the court to impose a sentence “pursuant to” the Guidelines. So long as the court consults the Guidelines in determining an appropriate sentence, any resulting sentence is “pursuant to” the Guidelines. Such a sentence would be “in compliance with” or “authorized by” the Guidelines, as *Black’s Law Dictionary* defines “pursuant to.”¹¹

Any other reading of the safety valve provision would render it unconstitutional under the Sixth Amendment as interpreted in *Booker*. *Booker* emphasized that the Sixth Amendment jury trial guarantee forbids judicial fact-finding of facts that could increase a defendant’s sentence. The Court explained, “Any fact (other than a prior conviction) which is necessary to support a sentence exceeding the maximum authorized by the facts established by a plea of guilty or a jury verdict must be admitted by the defendant or proved to a jury beyond a reasonable doubt.”¹² At the same time,

⁹ *Id.*

¹⁰ *United States v. Wilson*, 350 F.Supp.2d 910, 911 (D. Utah 2005).

¹¹ BLACK’S LAW DICTIONARY 1250 (7th ed. 1999).

¹² *Booker*, 125 S.Ct. at 756.

however, in the remedial section of the opinion, *Booker* explains that the Federal Sentencing Act, as modified by *Booker*, now requires a sentencing court to consider Guidelines ranges because “[w]ithout the ‘mandatory’ provision, the Act nonetheless requires judges to take account of the Guidelines together with other sentencing goals.”¹³

If the government’s argument in this case is correct, then the court must treat the Guidelines in a way that *Booker* forbids. Rather than read the safety valve provision as containing a defect, it is far better to read the provision as simply incorporating advisory Guidelines. As *Booker* itself explains, while Congress preferred a mandatory system, “that mandatory system is no longer an open choice.”¹⁴ As a result, it is appropriate to follow the conventional rule of statutory construction to avoid reading the statute as being constitutionally deficient.¹⁵

In the future, Congress could, of course, choose to modify the safety valve statute so that qualifying defendants simply dropped from one mandatory minimum sentence to another lower mandatory sentence. For example, Congress could provide that anyone subject to a ten-year mandatory minimum who meets the safety valve criteria would then be subject to, say, a five-year mandatory minimum. But that is not the way the statute is currently drafted. If *Booker* means anything, it is that Congress is not free to say, in effect, that anyone subject to a ten-year mandatory minimum who meets the criteria must then face unconstitutional judicial fact-finding in the determination of the final sentence. In other words, the safety valve provision does not work some

¹³ *Id.* at 764.

¹⁴ *Id.* at 767.

¹⁵ See, e.g., *Clark v. Suarez Martinez*, 125 S.Ct. 716 (Jan. 12, 2005).

kind of Sixth Amendment alchemy and transform unconstitutionally binding guidelines into constitutionally binding guidelines.

For all these reasons, the court concludes that once the safety valve provision is satisfied, the court must look to the advisory Guidelines in determining the appropriate sentence. The court, however, retains discretion to ultimately determine the appropriate punishment. Of course, in exercising its discretion, “the court will give heavy weight to the Guidelines in determining an appropriate sentence.”¹⁶ But the Guidelines – which are advisory in all other settings – are advisory in the safety valve setting as well.

Application to this Case

Having resolved *Booker*’s effect on the safety valve provision, the court is now in a position to determine defendant Duran’s sentence. The facts are as follows: On May 5, 2004, Duran approached a confidential informant and handed him a bag containing two ounces of methamphetamine and two ounces of cocaine. Duran requested that the informant keep the drugs until Duran could deliver it to another individual later that day. Police maintained contact with the informant as he accompanied Duran to several locations to deliver drugs. At one point, the informant was taken to Duran’s house, where he was introduced to some individuals, including Francisco and Ruben Vasquez. Ruben Vasquez offered to pay the informant to accompany Francisco Vasquez to Las Vegas, Nevada, for the purpose of picking up a large quantity of controlled substances. The informant agreed and accompanied Francisco Vasquez to Las Vegas. Ruben Vasquez and his wife also went to Las Vegas, but drove in separate cars. While returning home,

¹⁶ *Wilson*, 350 F.Supp.2D at 911.

with drugs in hand, Ruben Vasquez and his wife were stopped by the Nevada Highway Patrol and taken into custody. Francisco and the informant were later arrested in Utah County. Continuing its investigation, law enforcement agents executed a search warrant of Duran's home, in which the agents discovered one ounce of cocaine. Duran was arrested.

In his presentence interview, Duran accepted responsibility for the crime by admitting to participating in drug distribution with the Vasquez brothers for purposes of obtaining drugs for his own use. Furthermore, Duran is a first-time offender. The appropriate Guidelines range therefore starts from a base level offense for conspiracy to possess the relevant quantity of cocaine of 34, decreased by three levels for acceptance of responsibility. Duran also meets the safety valve criteria – which decreased Duran's total offense level an additional two levels to 29.¹⁷ A base offense level of 29 and a criminal history of one, results in a guideline range of 87-108 months. While this sentence is below the ten-year (120 month) mandatory minimum, the safety valve provision permits the court to impose this lower sentence. Both the government and Duran agree that this is the proper Guidelines calculation.

Duran argues for a sentence even lower than 87 months, citing his lack of criminal record and his remorsefulness for his crime. These facts, however, are already fully reflected in the advisory Guidelines sentence. As explained in *Wilson*, "In the exercise of its discretion, the court will only depart from those Guidelines in unusual cases for clearly identified and persuasive reasons."¹⁸ The defendant has not provided any good reason for believing that the Guidelines sentence is

¹⁷ U.S.S.G. § 5C1.2

¹⁸ *Wilson*, 350 F.Supp.2d at 911.

inappropriate in this case. Accordingly, the court – in exercising its discretion – will follow the advice of the Guidelines and impose an 87-month sentence

Judgment Held Open

At oral argument on this matter, the government requested time to consult with the Justice Department officials in Washington, D.C., to coordinate its position on this safety valve issue. Accordingly, the court will hold the judgment in this matter open for an additional 14 days from the date of this order to allow the government to file any objection to the court’s statutory analysis. Indeed, the court would appreciate the U.S. Attorney’s Office seeking to consult with its colleagues in Washington to determine what the Justice Department’s position is on the question discussed here. Otherwise, the U.S. Attorney’s Office in Utah might inadvertently take a different position from their colleagues elsewhere in the country. Inconsistent positions on such an important issue as applying the safety valve run the risk of creating differing sentences around the country. While *Booker* renders the Guidelines advisory, the court is still obligated to consider “the need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct”¹⁹ As *Wilson* explains, “the only way of avoiding gross disparities in sentencing from judge-to-judge and district-to-district is for sentencing courts to apply some uniform measure in all cases.”²⁰ The Justice Department has an important role to play in insuring uniformity. The court would appreciate understanding how the Department intends to approach this issue in other cases before entering final judgment in this matter.

¹⁹ 18 U.S.C. § 3553(a)(6).

²⁰ *Wilson*, 350 F.Supp.2d at 923.

CONCLUSION

The court holds that the safety valve provision, 18 U.S.C. § 3553(f), once satisfied, incorporates advisory Guidelines that gives the court discretion to impose any appropriate punishment. In exercising that discretion, the court will give “heavy weight” to the advisory Guidelines sentence. In this case, the court imposes an 87-month sentence, the recommended Guidelines sentence. The Judgment is held open to permit the government to evaluate its position.

POST-SCRIPT

The government has now filed a new pleading confessing error as to its earlier argument. The government now agrees that an interpretation of the safety valve “that treats the Guidelines as mandatory cannot be reconciled with *Booker*.”²¹ Accordingly, the court will adhere to its earlier ruling and now enter judgment for an 87-month sentence.

DATED this 17th day of February, 2005.

BY THE COURT:

 /S/
Paul G. Cassell
United States District Judge

²¹ Government’s Position with Respect to Application of the Safety Valve at 1.

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00396

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Veda M. Travis, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

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PROVO, UT 84601
EMAIL

Mr. Edwin S. Wall, Esq.
WALL LAW OFFICES
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SALT LAKE CITY, UT 84111
EMAIL

Frank E. Di Giacomo, Esq.
8511 LONG BEACH BLVD
SOUTH GATE, CA 92080

Mr. Earl G Xaiz, Esq.
YENGICH RICH & XAIZ
175 E 400 S STE 400
SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

United States District Court

Central Division for the District of Utah

J. Bronson, G. Lee Cook, and D. Cook

JUDGMENT IN A CIVIL CASE

v.

Sherrie Swensen, Salt Lake County
Clerk

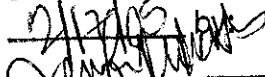
Case Number: 2:04 cv 21 TS

This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

that judgment be entered in favor of the defendant and plaintiffs' cause of action is dismissed.

Entered on docket

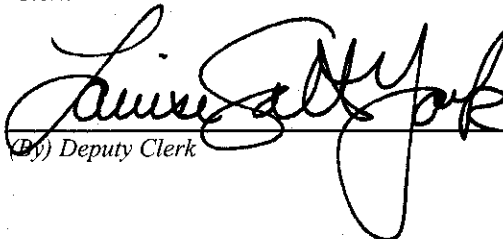

Deputy Clerk

February 17, 2005

Date

Markus B. Zimmer

Clerk


(By) Deputy Clerk

40

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00021

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Brian M. Barnard, Esq.
UTAH LEGAL CLINIC
214 E 500 S
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Mr. Jerrold S. Jensen, Esq.
UTAH ATTORNEY GENERAL'S OFFICE
160 E 300 S FIFTH FL
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SALT LAKE CITY, UT 84114-0874
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Andrew G Deiss, Esq.
JONES WALDO HOLBROOK & MCDONOUGH
170 S MAIN ST STE 1500
PO BOX 45444
SALT LAKE CITY, UT 84145-0444
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Marci A. Hamilton, Esq.
36 TIMBER KNOLL DR
WASHINGTON CROSSING, PA 18977

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB -9 A 11:37
DISTRICT OF UTAH
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH CENTRAL DIVISION

THOMAS HOWARD,

Plaintiff,

vs.

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

SCHEDULING ORDER

Case No: 2:04CV32

Magistrate Judge David Nuffer

The parties have consented to the exercise by the magistrate judge of civil jurisdiction over this case as authorized by 28 U.S.C. § 636(c). In order to facilitate the disposition of this case by the Court,

IT IS HEREBY ORDERED that **within eleven days of the date of this scheduling order**, the parties shall file a joint statement as to the following items:

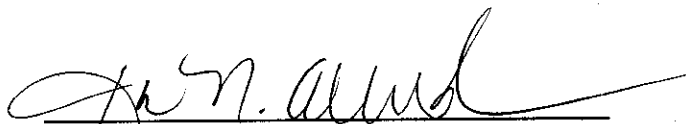
1. A statement as to whether oral argument to follow briefing is desired.
2. Whether the briefing schedule, set forth below, creates any special hardship.
3. A description of any pending or contemplated motions.

IT IS FURTHER ORDERED that, on or before the following dates, the parties shall file and serve a memorandum setting forth concisely the basis for the affirmance or reversal of the Commissioner's final decision, or request for remand under sentence six of 42 U.S.C. §

7

DATED this 8th day of February, 2005.

PAUL M. WARNER
United States Attorney

A handwritten signature in cursive script, appearing to read "Jan N. Allred", written over a horizontal line.

JAN N. ALLRED
Assistant United States Attorney

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00032

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Matthew Louis Nielson, Esq.
1320 LINCOLN ST
SALT LAKE CITY, UT 84105

Scott Patrick Bates, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 10 P 4:24

PAUL M. WARNER, United States Attorney (#3639)
JAN N. ALLRED, Assistant United States Attorney (#4741)
Attorneys for the United States of America
185 South State Street, Suite 400
Salt Lake City, Utah 84111-1506
Telephone (801) 524-5682

DISTRICT OF UTAH
BY: _____
DEPUTY CLERK
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FEB - 9 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,	)	FINAL ORDER IN GARNISHMENT
)	
vs.)	
)	
RIAN LOYD WILSON,)	
)	
Defendant,	)	Case No. 2:00CR00246-001
)	
DIAMOND GLASS,	)	Honorable David Nuffer
)	
Garnishee.)	

A Writ of Garnishment, directed to Garnishee, was duly issued on October 27, 2004 and served upon the Garnishee on or about November 8, 2004. Pursuant to the Writ of Garnishment, the Garnishee filed an Answer on November 15, 2004, stating that at the time of the service of the Writ the garnishee had in its possession or under its control personal property belonging to and due Rian Loyd Wilson (hereafter "Wilson").

On January 16, 2005, Wilson was notified of his right to a hearing and has not requested a hearing to determine exempt

property.

IT IS ORDERED that Garnishee pay to the United States of America non-exempt earnings, which are 25% of Wilson's net wage each pay period beginning with pay period ending November 25, 2004 (may include payments already submitted to the United States) and continue to pay 25% of Wilson's net wage each pay period until the debt to the United States is paid in full or until the garnishee no longer has custody, possession or control of any property belonging to Wilson or until further Order of this court. Payments shall be sent to U. S. Clerk of Court at 350 South Main Street, Room 150, Salt Lake City, Utah 84101.

DATED this 10 day of February, 2005.

BY THE COURT:



DAVID NUFFER, Magistrate Judge
United States District Court

406.WP

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:00-cr-00246

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

US Probation
DISTRICT OF UTAH

,
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

Ms. Jan N. Allred, Esq.
US ATTORNEY'S OFFICE

,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 17 P 1:59

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MARGARET GAUGHRAN,

Plaintiff,

vs.

**ORDER GRANTING RED MOUNTAIN
SPA'S MOTION TO COMPEL
AND FOR SANCTIONS**

RED MOUNTAIN RESORT AND SPA,
INC., DEREK CUMMINGS, JOHN &
JANE DOES I thru V, and CORPORATION
X, Y, & Z.

Defendants.

Case No. 2-02CV-0542 TS

Judge Ted Stewart

Magistrate Judge David Nuffer

On February 9, 2005, defendant Red Mountain Spa's Motion to Compel¹ was heard. Red Mountain was represented by Andrew M. Morse of Snow, Christensen & Martineau. Defendant Derek Cummings was represented by Chad Hutchings of Perry, Malmberg & Perry. Plaintiff was represented by C. Richard Henriksen, Jr. of Henriksen & Henriksen.

This case arose out of a hike conducted by Red Mountain Spa that included guests plaintiff Peggy Gaughran and defendant Derek Cummings. During the hike, defendant Red Mountain alleges that Mr. Cummings lost his footing and began to slide down a cliff. Defendant Red Mountain further alleges that he became entangled with the plaintiff, forcing her off the cliff. Plaintiff was injured. Plaintiff sued Red Mountain Spa and Derek Cummings.

¹ Docket no. 55, filed January 20, 2005.

61

During his October 2004 deposition, Mr. Cummings testified that he is an insulin-dependent diabetic. Defendant Red Mountain alleges his testimony and other evidence suggested that Mr. Cummings may have been weak and fatigued throughout the hike. Defendant Red Mountain alleges that after the hike, Mr. Cummings was treated at the Dixie Regional Medical Center where urinalysis revealed elevated levels of glucose, ketone protein, and hyaline casts. Defendant Red Mountain claims this test might suggest that Mr. Cummings' diabetes was not under control and, therefore, may have contributed to his mental and physical condition at the time of the incident.

Red Mountain Spa has made a showing that it is entitled to discovery concerning Mr. Cummings' diabetic condition and how it may have related to his condition on the day of the accident. In November 2004, Mr. Hutchings, counsel for Mr. Cummings, agreed with this assessment. In November, Mr. Hutchings sent HIPAA²-compliant releases prepared by Red Mountain Spa to Mr. Cummings, and requested that he sign and return them so Red Mountain Spa and the other parties might obtain Mr. Cummings' physicians' records. Mr. Cummings has not returned the releases despite repeated requests by his attorney Mr. Hutchings.

The court will grant Red Mountain Spa's motion to compel and order that Mr. Cummings sign the submitted releases, plus an additional release that will be issued to the ambulance agency that transported Mr. Cummings from the accident site to the hospital, and he shall do so in such a

² Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. § 1320d.

manner that Red Mountain Spa's attorney has them on or before February 25, 2005. Further, the court will order that Red Mountain Spa may, if it chooses, depose Mr. Cummings' doctors about his diabetic condition; and may also depose the ambulance witnesses about the same issue. Further, after Red Mountain Spa reviews the medical records, it may reopen the deposition of Mr. Cummings only on the subjects of his diabetic condition and how his diabetic condition may have affected Mr. Cummings on the day of the accident. In order to limit costs, the court recommends that counsel consider stipulation to a video deposition or to Mr. Cummings' travel to Salt Lake City for the deposition.

The court strongly disapproves of Mr. Cummings' lack of cooperation with his counsel as it is in violation of the obligations of litigants. Therefore, the court warns Mr. Cummings that if he fails to fully and timely comply with this order, the court may, after notice and opportunity to be heard, enter an appropriate sanction as provided in Fed. R. Civ. P. Rule 37(b)(2), including but not limited to, (1) striking defendant Cummings' answer and entering a default judgment; (2) ordering that designated facts be taken as established; (3) ordering that Mr. Cummings personally pay attorneys' fees and reasonable expenses caused by his failure to comply with the order; and/or (4) ordering that Mr. Cummings personally pay a fine.

Red Mountain's prayer for attorney fees related to this motion was withdrawn. No fees, therefore, will be awarded. If Mr. Cummings, however, fails to comply with this order, Red Mountain may seek fees related to this motion.

ORDER

IT IS HEREBY ORDERED that Red Mountain Spa's Motion to Compel is GRANTED.

IT IS FURTHER ORDERED

- a. that Mr. Cummings shall sign the releases already submitted to him, plus an additional release that will be issued to the ambulance agency that transported Mr. Cummings from the accident site to the hospital
- b. that Mr. Cummings shall submit the releases immediately, in order that Red Mountain Spa's attorney has them on or before February 25, 2005.
- c. that Red Mountain Spa may, if it chooses, depose Mr. Cummings' doctors about his diabetic condition; and may also depose the ambulance witnesses about the same issue.
- d. that after Red Mountain Spa reviews the medical records, it may reopen the deposition of Mr. Cummings on the subjects of his diabetic condition and how his diabetic condition may have affected Mr. Cummings on the day of the accident.

DATED this 17th day of February, 2005.

BY THE COURT:


Magistrate Judge David Nuffer

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-00542

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Ms. Jan P Malmberg, Esq.
PERRY MALMBERG & PERRY
99 N MAIN
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10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
EMAIL

Mr. C. Richard Henriksen Jr., Esq.
HENRIKSEN & HENRIKSEN
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SALT LAKE CITY, UT 84102
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James E. Seaman, Esq.
HENRIKSEN & HENRIKSEN
320 S 500 E
SALT LAKE CITY, UT 84102
JFAX 9,3550246

FILED
CLERK U.S. DISTRICT COURT

2005 FEB 17 P 1:35

DISTRICT OF UTAH

BY: DEPT. V. MARK

George W. Pratt (USB #2642)
JONES, WALDO, HOLBROOK & McDONOUGH, P.C.
Attorneys for SN Commercial, LLC
170 South Main Street, Suite 1500
Salt Lake City, Utah 84101
Telephone: (801) 521-3200
Facsimile: (801) 328-0537

RECEIVED CLERK

FEB - 9 2005

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

SN COMMERCIAL, LLC,

Plaintiff,

vs.

MALA KAPPOS, as the Personal
Representative of the Estate of Edwin M.
Higley; UTAH SPUDS, INC.; MOON LAKE
ELECTRIC ASSOCIATION,
INCORPORATED; DeVON J. McKEE;
LYNN A. JENKINS; HAWTHORN, LC;
COUNTRYWEST CONSTRUCTION AND
REAL ESTATE, INC.; GREGORY HIGLEY;
MARK HIGLEY; TERRY SMEDLEY;
COUNTRYBROOK, L.L.C.; RESIDENTIAL
MORTGAGE, INC.; and ELDON WALTON,
as the personal representative of the Estates of
H. Arvene Cooper and Maurice N. Cooper,

Defendants.

DEFAULT CERTIFICATE

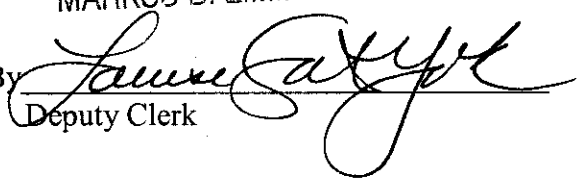
Civil No. 1:04CV00171 DAK

Honorable Dale A. Kimball

In this action the defendant, Utah Spuds, Inc., has been served with copies of the Summons and Complaint, and has failed to answer or otherwise respond to plaintiff's Complaint within twenty (20) days following service, as required by the Summons. The time allowed by law for responding or answering has expired. Accordingly, the default of defendant Utah Spuds, Inc. is hereby duly entered according to law.

DATED this 16th day of February, 2005.

CLERK OF COURT
MARKUS B. ZIMMER

By 
Deputy Clerk

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00171

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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M. Darin Hammond, Esq.
SMITH KNOWLES & HAMILTON
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OGDEN, UT 84403
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Utah Spuds
C/O DIVISION OF CORPORATIONS
160 EAST 300 SOUTH
SALT LAKE CITY, UT 84102

Anthony C. Kaye, Esq.
BALLARD SPAHR ANDREWS & INGERSOLL
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SALT LAKE CITY, UT 84111-2215
EMAIL

Lynn A. Jenkins
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Laura S. Scott, Esq.
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8 East Broadway, Ste. 500
Salt Lake City, Utah 84111
Telephone: (801) 523-3445
Facsimile: (801) 746-5613
Electronic Notice: wallsec@xmission.com

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 17 A 0:14

DISTRICT COURT UTAH

BY: [Signature] DEPUTY CLERK

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2005 FEB 10 P

U.S. DISTRICT COURT
DISTRICT OF UTAH

RECEIVED

FEB 10 2005

JUDGE'S COPY

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT J. TREAT,

Defendant.

ORDER

Case No. 1:04 CR 0001-001 - DN

Hon. David O. Nuffer
United States Magistrate Judge

SECOND MOTION TO EXTEND DATE OF SURRENDER

COMES NOW the defendant, by and through his attorney, Edwin S. Wall, and moves the court to extend the defendant's date of surrender for sixty (60) days. Grounds for this motion are:

The Defendant has retained Federal Prison Consultants, Inc., which is not an agency of the federal government. Counsel has requested a letter from Federal Prison Consultants, Inc. regarding their credentials. Attached is a letter received by counsel regarding the Credentials of Federal Prison Consultant's Incorporated. *Attachment A.*

The Defendant desires an extension of time so that Federal Prisons, Consultants, Inc. will have sufficient time to have W. Steven Saunders, a retiring Federal Bureau of Prisons psychologist interview and examine Mr. Treat to determine the scope of Mr. Treat's substance abuse and recommend specific treatment for Mr. Treat while he is in the custody of the Bureau of Prisons. Mr. Saunders will be joining the staff of Federal Prisons Consultants, Inc. on March 1,

54

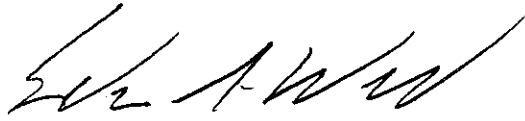
2005. A copy of the grounds for the extension as needed by Federal Prison Consultants Inc. is attached hereto. *Attachment B*.

Mr. Treat is presently scheduled to surrender at noon, February 11, 2005.

Defense counsel has contacted the prosecutor in the above-entitled matter regarding the extension of time and the United States is opposed to the extension.

WHEREFORE it is respectfully requested that the court extend the date of surrender in the above-entitled matter for sixty (60) days in order for Federal Prison Consultants Inc. to conduct an interview and professionally determine the scope of substance abuse that the defendant has and recommend specific treatment while Mr. Treat is in the custody of the Bureau of Prisons.

DATED this 10th day of February, 2005.



Edwin S. Wall,
Attorney for the Defendant

DENIED



DAVID NUFFER
U.S. Magistrate Judge

Date 2/16/05

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cr-00001

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Elizabethanne C Stevens, Esq.
US ATTORNEY'S OFFICE

,
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Mr. Edwin S. Wall, Esq.
WALL LAW OFFICES
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SALT LAKE CITY, UT 84111
EMAIL

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 16 A 9:55
BY: DEPUTY CLERK

UNITED STATES OF AMERICA

Plaintiff(s),

vs.

GILBERT TODD ELLIS

Defendant(s),

PRETRIAL ORDER PURSUANT
TO RULE 17.1 F.R.Cr.P.

Case No. 2:04-CR-616 PGC

The above-entitled action came on for pretrial conference February 10, 2005, before Samuel Alba, United States Magistrate Judge. Defense counsel and the Assistant United States Attorney were present. Based thereon the following is entered:

1. A jury trial in this matter is set for 4/21/05, (2 days) at 8:30 am. It appears the trial date is appropriate if the matter is to be tried. Proposed instructions are to be delivered to Judge Paul G. Cassell by 4/18/05 along with any proposed voir dire questions.

2. The government has an open file policy re: discovery.

Yes X No

The government shall provide defense counsel with a copy of the defendant's criminal history. Defense counsel shall not permit further dissemination of the document.

12

3. Pretrial motions are to be filed by: 3/11/05 at 5:00 p.m.

4. It is unknown if this case will be resolved by a negotiated plea of some kind. If so, plea negotiations should be completed by 4/7/05. If negotiations are not completed for a plea by the date set, the case will be tried.

5. Issues as to witnesses do not exist in this matter, but defense counsel will make arrangements for subpoenas, if necessary, as early as possible to allow timely service.

6. Defendant's release or detention status: DETAINED.

7. All exhibits will be premarked before Judge Paul G. Cassell's clerk before trial.

8. Other order and directions are: Government to provide discovery by 2/18/05.

9. Interpreter Needed: Yes ☐ No ☒ Language _____

DATED this 10th day of February, 2005.

BY THE COURT:



Samuel Alba
Chief Magistrate Judge

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00616

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

David F. Backman, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Vanessa M. Ramos-Smith, Esq.
UTAH FEDERAL DEFENDER OFFICE
46 W BROADWAY STE 110
SALT LAKE CITY, UT 84101
EMAIL

United States Marshal Service
DISTRICT OF UTAH
,
EMAIL

US Probation
DISTRICT OF UTAH
,
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

2005 FEB 15 A 9:54

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

UNITED STATES OF AMERICA

Plaintiff(s),

vs.

TY K. LEYLAND

Defendant(s),

PRETRIAL ORDER PURSUANT
TO RULE 17.1 F.R.Cr.P.

Case No. 2:04-CR-1 PGC

The above-entitled action came on for pretrial conference February 10, 2005, before Samuel Alba, United States Magistrate Judge. Defense counsel and the Assistant United States Attorney were present. Based thereon the following is entered:

1. A jury trial in this matter is set for 4/21/05, (2 days) at 8:30 am. It appears the trial date is appropriate if the matter is to be tried. Proposed instructions are to be delivered to Judge Paul G. Cassell by 4/18/05 along with any proposed voir dire questions.

2. The government has an open file policy re: discovery.

Yes X No

The government shall provide defense counsel with a copy of the defendant's criminal history. Defense counsel shall not permit further dissemination of the document.

9

3. Pretrial motions are to be filed by: 3/11/05 at 5:00 p.m.

4. It is unknown if this case will be resolved by a negotiated plea of some kind. If so, plea negotiations should be completed by 4/7/05. If negotiations are not completed for a plea by the date set, the case will be tried.

5. Issues as to witnesses do not exist in this matter, but defense counsel will make arrangements for subpoenas, if necessary, as early as possible to allow timely service.

6. Defendant's release or detention status: DETAINED.


7. All exhibits will be premarked before Judge Paul G. Cassell's clerk before trial.

8. Other order and directions are: GOVERNMENT TO PROVIDE DISCOVERY BY 2/17/05.

9. Interpreter Needed: Yes ☐ No ☒ Language _____

DATED this 10th day of February, 2005.

BY THE COURT:



Samuel Alba
Chief Magistrate Judge

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00001

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Vernon G. Stejskal, Esq.
DRUG ENFORCEMENT ADMINISTRATION
METROPOLITAN NARCOTICS TASK FORCE
348 E SOUTH TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

Mr. David M Bown, Esq.
39 EXCHANGE PLACE STE 200
SALT LAKE CITY, UT 84111
JFAX 9,5325041

United States Marshal Service
DISTRICT OF UTAH

,
EMAIL

US Probation
DISTRICT OF UTAH

,
EMAIL

RECEIVED CLERK **FILED**
U.S. DISTRICT COURT

FEB - 1 2005 FEB 16 P 1:36

U.S. DISTRICT COURT
DISTRICT OF UTAH

BY:

DET

RECEIVED

FEB - 1 2005

OFFICE OF
JUDGE PAUL G. CASSELL

RUSSELL T. MONAHAN, USB #9016
COOK & ASSOCIATES, P.C.
Attorney for Plaintiff
323 South 600 East, Suite 200
Salt Lake City, Utah 84102
Telephone: (801) 595-8600
Telefax: (801) 595-8614
E-Mail: russ@cooklawfirm.com

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

SHANNON K. RENNER,

Plaintiff,

vs.

HARSCO CORPORATION, dba,
AMERICAN WELDING & TANK

Defendant.

JUDGMENT

Case No. 2:03-cv-00950 PGC

Judge Paul Cassell

The above titled matter came before the Court for jury trial on January 10, 2005 through January 13, 2005. The Plaintiff appeared and was represented by Russell T. Monahan. The Defendant appeared and was represented by Mark O. Morris and Tawni J. Sherman. Following the presentation of evidence and arguments of counsel, the Jury returned a special verdict in favor of Plaintiff and against the Defendant that was entered into the record. Based thereon, the

Entered on docket

2-17-05 by:

Pat

Deputy Clerk

52

Court hereby enters Judgment in favor of the Plaintiff and against the Defendant as follows:

1. For pain and suffering, thirty thousand dollars (\$30,000.00).
2. For emotional distress, thirty thousand dollars (\$30,000.00).
3. For punitive damages, twenty thousand dollars (\$20,000.00).
4. For costs as allowed under Fed. R. Civ. P. 54(d)(1) and DUCivR 54-2(a). *Plaintiff shall file a bill of costs within 21 days.*

DATED this 16th day of February, 2005.

BY THE COURT:



HONORABLE PAUL G. CASSELL
U.S. DISTRICT COURT JUDGE

APPROVED AS TO FORM:



Mark O. Morris
Attorney for the Defendant

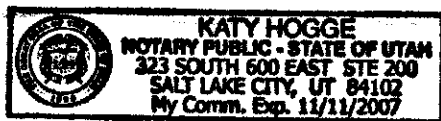
STATE OF UTAH)
) ss
COUNTY OF SALT LAKE)


That he is the attorney for Plaintiff herein; and that he served the attached **JUDGMENT** upon:

by placing a true and correct copy thereof in an envelope and depositing the same, sealed, with first-class postage prepaid thereon, in the United States mail at Salt Lake City, Utah, on the 29 day of January, 2005.


RUSSELL T. MONAHAN

Subscribed and sworn to before me this 27th day of January, 2005.




NOTARY PUBLIC

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00950

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Russell T. Monahan, Esq.
STEPHEN W COOK PC
323 S 600 E STE 200
SALT LAKE CITY, UT 84102
EMAIL

Mr. Mark O. Morris, Esq.
SNELL & WILMER LLP
15 W SOUTH TEMPLE STE 1200
GATEWAY TOWER W
SALT LAKE CITY, UT 84101
EMAIL

RECEIVED CLERK

FEB 15 2005

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

FEB 16 2005

MARKUS B. ZIMMER, CLERK
BY

U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Ken B. KALLAS, and, Angela R. KALLAS

Plaintiff

v.

PFIZER INC

Defendant.

CASE NO. 04CV00998 (PGC)

Appearing on behalf of:

Pfizer Inc - Defendant

(Plaintiff/Defendant)

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Terence L. Rooney, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date:

2-15, 2005 Terence L. Rooney 5789

(Signature of Local Counsel)

(Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, James Hooper, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) X a non-resident of the State of Utah or, (ii) a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates T. Rooney, Snow, Christensen & Martineau as associate local counsel.

Date: February 14, 2005

Check here X if petitioner is lead counsel.

James E Hooper
(Signature of Petitioner)

Name of Petitioner: James Hooper

Office Telephone: (303) 244-2525

(Area Code and Main Office Number)

Business Address:

wheeler Trigg Kenndy LLP

(Firm/Business Name)

1801 California Street, Ste. 3600

Denver

CO

80202

Street

City

State

Zip

24

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
State Courts	Colorado	10/23/95
State Courts	Georgia	06/24/93
USDC	Colorado	12/06/95
USDC	Northern D. of Georgia	05/19/94
U.S. Court of Appeals	10th Circuit	09/10/01
United States Supreme Court		06/07/04

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
NO PRIOR ADMISSION TO UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH		

(If additional space is needed, attach a separate sheet.)

FEE PAID

ORDER OF ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 16th day of Feb., 20 05.



U.S. District Judge

RECEIVED CLERK

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

FEB 15 2005

FEB 16 2005

U.S. DISTRICT COURT

MARKUS B. ZIMMER, CLERK
BY

DEPUTY CLERK

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Ken B. KALLAS, and, Angela R. KALLAS

Plaintiff

v.

PFIZER INC

Defendant.

*
* CASE NO. 04CV00998(PGC)
*
* Appearing on behalf of:
*
* Pfizer Inc - Defendant
*
* (Plaintiff/Defendant)
*

MOTION AND CONSENT OF DESIGNATED ASSOCIATE LOCAL COUNSEL

I, Terence L. Rooney, hereby move the pro hac vice admission of petitioner to practice in this Court. I hereby agree to serve as designated local counsel for the subject case; to readily communicate with opposing counsel and the Court regarding the conduct of this case; and to accept papers when served and recognize my responsibility and full authority to act for and on behalf of the client in all case-related proceedings, including hearings, pretrial conferences, and trials, should Petitioner fail to respond to any Court order.

Date:

2-15

, 2005

(Signature of Local Counsel)

(Utah Bar Number)

APPLICATION FOR ADMISSION PRO HAC VICE

Petitioner, Craig May, hereby requests permission to appear pro hac vice in the subject case. Petitioner states under penalty of perjury that he/she is a member in good standing of the bar of the highest court of a state or the District of Columbia; is (i) ☒ a non-resident of the State of Utah or, (ii) ☐ a new resident who has applied for admission to the Utah State Bar and will take the bar examination at the next scheduled date; and, under DUCivR 83-1.1(d), has associated local counsel in this case. Petitioner's address, office telephone, the courts to which admitted, and the respective dates of admission are provided as required.

Petitioner designates Terrence Rooney, Snow, Christensen & Martineau as associate local counsel.Date: February 14, 2005Check here ☐ if petitioner is lead counsel.

(Signature of Petitioner)

Name of Petitioner: Craig MayOffice Telephone: (303) 244-2525

(Area Code and Main Office Number)

Business Address: Wheeler Trigg Kennedy LLP

(Firm/Business Name)

1801 California Street, Ste. 3600

Street

Denver

City

CO

State

80202

Zip

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
State Courts	Colorado	10/16/00
State Courts	Kansas	03/01/99
USDC	Colorado	2000
USDC	Northern D. of Oklahoma	2000
USDC	Kansas	2001
U.S. Court of Appeals	10th Circuit	07/1999
U.S. Court of Appeals	9th Circuit	01/14/02

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
NO PRIOR ADMISSION TO UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH		

(If additional space is needed, attach a separate sheet.)

ORDER OF ADMISSION

FEE PAID

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv R 83-1.1(d), the motion for Petitioner's admission pro hac vice in the United States District Court, District of Utah in the subject case is GRANTED.

This 16 day of Feb., 2015.



U.S. District Judge

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
OFFICE OF THE CLERK OF COURT
Pro Hac Vice Admission Application for Craig May**

BAR ADMISSION HISTORY CONT.

U.S. Court of Appeals, 4 th Circuit	4 th Circuit	4/19/04
Supreme Court of the United States		06/2004

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00998

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Edward B. Havas, Esq.
DEWSNUP KING & OLSEN
36 S STATE ST STE 2020
SALT LAKE CITY, UT 84111
EMAIL

Terence L. Rooney, Esq.
SNOW CHRISTENSEN & MARTINEAU
10 EXCHANGE PLACE
PO BOX 45000
SALT LAKE CITY, UT 84145-5000
JFAX 9,3630400

James Hooper, Esq.
WHEELER TRIGG KENNEDY LLP
1801 CALIFORNIA ST STE 3600
DENVER, CO 80202

United States District Court

Central Division for the District of Utah

Ronald H. Cole

v.

JoAnne Barnhart

JUDGMENT IN A CIVIL CASE

Case Number: 2:03cv 144 PGC

This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

that the case has been remanded to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

February 16, 2005

Date

Markus B. Zimmer

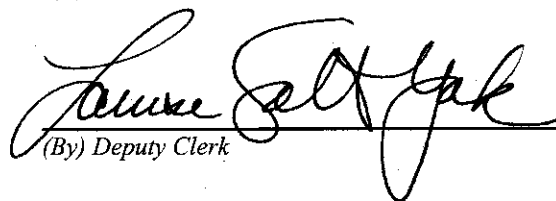
Clerk

Entered on docket

2-17-05 by:

PGH

Deputy Clerk


(By) Deputy Clerk

38

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00144

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Maggie H. Abuhaidar, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Ms. Carlie Christensen, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Scott Patrick Bates, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

Mr. John J. Borsos, Esq.
PO BOX 112347
SALT LAKE CITY, UT 84147-2347
EMAIL

United States District Court

Central Division for the District of Utah

Sandy L. Horton

v.

JoAnne Barnhart

JUDGMENT IN A CIVIL CASE

Case Number: 2:04cv 622 PGC

This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

that the case has been remanded to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

February 16, 2005

Date

Markus B. Zimmer

Clerk

Entered on docket

2-17-05

by:

KAT

Deputy Clerk

Laure Sab Yash
(By) Deputy Clerk

13

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00622

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Bradford D. Myler, Esq.
MYLER LAW OFFICES
1278 S 800 E
PO BOX 970039
OREM, UT 84097
EMAIL

Scott Patrick Bates, Esq.
US ATTORNEY'S OFFICE
,
EMAIL

FILED
IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH NORTHERN DIVISION
2005 FEB 16 P 4:45

Wasatch Energy

Plaintiff,

vs.

NGL.com

Defendant.

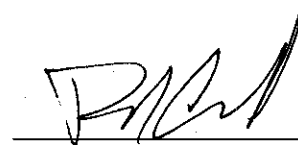
DISTRICT OF UTAH
BY: DEPUTY CLERK
ORDER TO SHOW CAUSE

Case No. 1:04-cv-00125 PGC

Defendant is hereby ordered to show cause why default judgment for failing to appear and defend should not be entered against them in the above referenced matter. An answer was due in this matter on 12/28/2004. Defendant NGL.com is directed to respond in writing within 15 days from the date of this order and inform the Court of the status of the case and intentions to proceed. Failure to do so will may result in entry of default judgment against NGL.com

Dated this 16th day of February, 2005.

By



Paul Cassell

United States District Judge

3

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00125

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Eric C. Olson, Esq.
KIRTON & MCCONKIE
60 E S TEMPLE STE 1800
SALT LAKE CITY, UT 84111-1004
EMAIL

Perrin R. Love, Esq.
CLYDE SNOW SESSIONS & SWENSON
ONE UTAH CENTER 13TH FL
201 S MAIN ST
SALT LAKE CITY, UT 84111-2216
EMAIL

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 15 P 4:47

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FEB 17 2005

U.S. DISTRICT COURT

Prepared and Submitted By:

David B. Watkiss, Esq. (#3401)

Jason D. Boren, Esq. (#7816)

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

201 South Main Street, Suite 600

Salt Lake City, Utah 84111-2221

Telephone: (801) 531-3000

Facsimile: (801) 531-3001

RECEIVED

FEB 14 2005

OFFICE OF
JUDGE PAUL G. CASSELL

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

RICK O'HEARON,

Plaintiff,

vs.

**ADALET, INC. aka ADALET, a division of
THE SCOTT FETZER COMPANY, a
wholly owned subsidiary of BERKSHIRE
HATHAWAY, INC.,**

Defendant.

**ORDER GRANTING MOTION AND
STIPULATION OF DISMISSAL WITH
PREJUDICE**

Case No. 2:02 CV 1189 PGC

Honorable Paul G. Cassell

Based upon the parties' Joint Motion and Stipulation of Dismissal With Prejudice,
and good cause appearing therefore,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Complaint
in the above-captioned action be, and hereby is, dismissed with prejudice, with the parties to bear
their respective attorneys' fees and costs.

DATED this 16th day of February, 2005.

BY THE COURT



Paul G. Cassell
District Court Judge

APPROVED AS TO FORM



Loren M. Lambert, Esq.
Attorneys for Rick O'Hearon

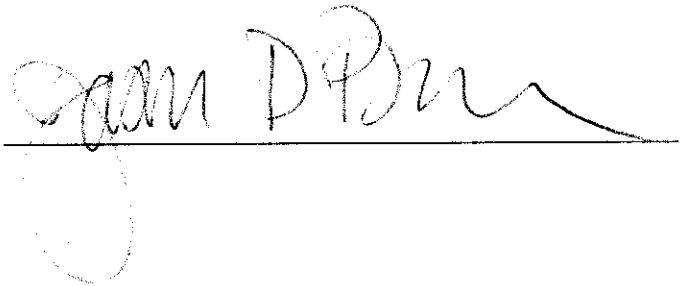
CLERK'S CERTIFICATE OF SERVICE

I certify that on the 11^m day of February 2005, I caused to be mailed via United States

Mail a certified copy of the foregoing **ORDER GRANTING MOTION AND STIPULATION
OF DISMISSAL WITH PREJUDICE** to the following::

Loren M. Lambert, Esq.
ARROW LEGAL SOLUTIONS, LLC
266 East 7200 South
Midvale, Utah 84047

David B. Watkiss, Esq.
Jason D. Boren, Esq.
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
201 South Main Street, Suite 600
Salt Lake City, Utah 84111-2221

A handwritten signature in black ink, appearing to read "Jason D. Boren", is written over a horizontal line. Below the line, there is a faint, circular stamp or mark.

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:02-cv-01189

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

David B. Watkiss, Esq.
BALLARD SPAHR ANDREWS & INGERSOLL
201 S MAIN STE 600
SALT LAKE CITY, UT 84111-2215
EMAIL

Loren M. Lambert, Esq.
ARROW LEGAL SOLUTIONS GROUP
266 E 7200 S
MIDVALE, UT 84047
EMAIL

Bel-Ami de Montreux (#6207)
MONTREUX FRÈRES, P.C.
180 South 300 West, Suite 350
Salt Lake City, Utah 84101

Telephone: (801) 359-6844

ATTORNEY FOR PLAINTIFF

Eric C. Olson (#4108)
KIRTON & McCONKIE
60 East South Temple, #1800
P.O. Box 45120
Salt Lake City, UT 84145-0120
Telephone: (801) 328-3600
Facsimile: (801) 321-4893

-and-

Thomas H. Kiggans
PHELPS DUNBAR, LLP
445 North Blvd., Suite 701
Baton Rouge, LA 70821
Telephone: (225) 346-0285
Facsimile: (225) 381-9197

ATTORNEYS FOR DEFENDANT

FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 16 12:47

DISTRICT

BY: DEPUTY

RECEIVED CLERK

FEB 16 2005

U.S. DISTRICT COURT

RECEIVED

FEB 14 2005

OFFICE OF
JUDGE PAUL G. CASSELL

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

GLENN A WYETH

Plaintiff,

v.

TURNER ENVIRONMENTAL SERVICES
Also known as HARMONY/T.I.S. and
AND JANE DOES I TO X,

Defendants.

*
*
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*
*

Civil No. 2:03 cv 0059 PC

Honorable Paul G. Cassell

ORDER OF DISMISSAL

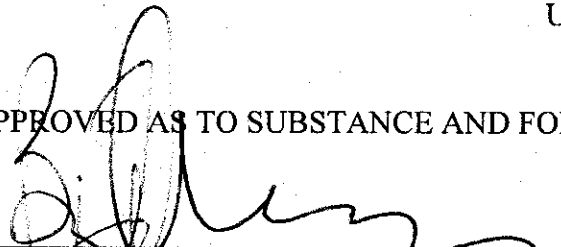
53

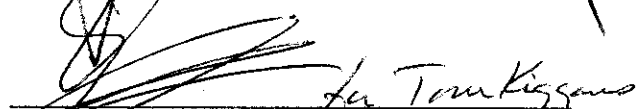
Pursuant to the Stipulation of Dismissal by the parties, this matter shall be and is hereby dismissed with prejudice, each party to bear her/its own costs.

Signed this 16th day of February, 2005, in Salt Lake City, Utah.


UNITED STATES DISTRICT JUDGE

APPROVED AS TO SUBSTANCE AND FORM:


Bel-Ami de Montreux, Counsel for Plaintiff


Thomas H. Kiggans, Counsel for Defendant

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00059

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

Eric C. Olson, Esq.
KIRTON & MCCONKIE
60 E S TEMPLE STE 1800
SALT LAKE CITY, UT 84111-1004
EMAIL

Thomas H. Kiggans, Esq.
PHELPS DUNBAR
445 N BLVD STE 701
BATON ROUGE, LA 70802
EMAIL

Bel-Ami J. de Montreux, Esq.
180 S 300 W #350
SALT LAKE CITY, UT 84101
EMAIL

BRENT P. LORIMER (A3731)
THOMAS R. VUKSINICK (A3341)
WORKMAN NYDEGGER
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111
Telephone: (801) 533-9800

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 15 P 3:47
BY: [Signature]
DEPT. OF JUSTICE

RECEIVED CLERK

FEB 14 2005

U.S. DISTRICT COURT

Attorneys for Plaintiff Ultradent Products, Inc.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

ULTRADENT PRODUCTS, INC., a Utah
corporation,

Plaintiff,

v.

PREMIER DENTAL PRODUCTS CO.,
a Pennsylvania corporation,

Defendant.

Civil Action No.2:04CV00721 PGC

Honorable Paul G. Cassell

~~PROPOSED~~ ORDER TO EXTEND
TIME TO ALLOW TIME TO
COMPLETE SETTLEMENT
NEGOTIATIONS

Based upon the stipulated motion of the parties, this Court hereby orders that the time for
Premier to answer the Complaint in this action is extended to April 29, 2005.

DATED this 16th day of February, 2005.

[Signature]

Honorable Paul G. Cassell
United States District Judge

5

PROOF OF SERVICE

The undersigned declares that he/she is over the age of 18 years, not a party to this action, and employed in the County of Salt Lake, by Workman, Nydegger & Seeley, Attorneys at Law, 60 East South Temple, Suite 1000, Salt Lake City, Utah 84111. On the date listed below, I served copies, with all exhibits and attachments, of the foregoing **[PROPOSED] ORDER TO EXTEND TIME TO ALLOW TIME TO COMPLETE SETTLEMENT NEGOTIATIONS** on the following individuals and entities, as addressed below, by the means indicated below:

Stuart D. Rudoler, Esq.
2 Bala Plaza, Suite 300
Bala Cynwyd, PA 19004

X (BY MAIL) by placing for collection and deposit in the United States mail true copies of the documents at Salt Lake City, Utah, in a sealed envelope with postage thereon fully prepaid, addressed as above.

_____ (BY HAND DELIVERY) I caused each such document to be personally delivered by hand to the addressees shown above at the addresses shown above.

X (BY FACSIMILE) I caused each such document to be sent by facsimile to the addressees above at the addresses shown above.

_____ (BY OVERNIGHT COURIER) I caused this document to be sent by overnight courier for next-day delivery, with all charges prepaid, to the addressees shown above at the addresses shown above.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on February 11, 2005, at Salt Lake City, Utah.

Elizabeth C. Davidson

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00721

True and correct copies of the attached were either mailed, faxed or e-mailed
by the clerk to the following:

Brent P. Lorimer, Esq.
WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 E S TEMPLE
SALT LAKE CITY, UT 84111
EMAIL

Premier Dental Products
1710 ROMANO DR
PLYMOUTH MEETING, PA 91462

2005 FEB 18 P 4:11

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

DEPUTY CLERK

B.L. BRERETON,

Plaintiff,

vs.

BOUNTIFUL CITY CORP., et al.,

Defendants.

ORDER DISMISSING CASE FOR
LACK OF JURISDICTION

Case No. 1:04-CV-00139 PGC

Plaintiff, B.L. Brereton, has filed suit for declaratory and injunctive relief alleging that Bountiful City's ordinance prohibiting parking on certain public and privately owned property for the purpose of advertising a vehicle is unconstitutional. Brereton seeks a preliminary injunction to prevent the enforcement of the ordinance while this action is pending. This court finds that Mr. Brereton lacks standing to challenge the ordinance and therefore orders dismissal.

BACKGROUND

The pertinent part of the Bountiful City Code reads:

(4)(a) It is unlawful to park in any parking lot or on other property (not including public streets) owned by the City any car, truck, motorcycle, motor home, trailer, boat or other vehicle of any description for the purpose of advertising or of selling that vehicle.

18

(b) It is unlawful to park in any private parking lot or on other private property any car, truck, motorcycle, motor home, trailer, boat or other vehicle of any description for the purpose of advertising or of selling that vehicle, without the consent of the owner.¹

According to the declaration of Mr. Brereton filed with this motion, he wishes to “park and/or operate [his] vehicle in Bountiful City while displaying a ‘For Sale’ sign in the window of the vehicle.”² But Mr. Brereton “fear[s] prosecution for advertising the vehicle for sale in this manner” and so has “refrained from driving and parking in Bountiful City with a ‘For Sale’ sign in the vehicle window.”³ Mr. Brereton alleges that he has deliberately refrained from driving in Bountiful with the For Sale sign in his vehicle because he is “unable to discern the meaning of the phrase ‘for the purpose of’” in the City ordinance.⁴ He therefore alleges that the ordinance is overbroad, vague, and chills protected speech.

DISCUSSION

The initial question that must be answered is what type of challenge Mr. Brereton has brought. The Amended Complaint states that the ordinance “is *facially* unconstitutional because it impermissibly infringes on the plaintiff’s rights under the First Amendment . . . by prohibiting the plaintiff from engaging in otherwise lawful and protected expression.” In support of this, Mr. Brereton makes three claims: (1) that the ordinance is void for vagueness; (2) that the ordinance

¹ Bountiful City Code § 13-103(4)(a)&(b) (as modified by Bountiful City Ordinance No. 2004-19).

²Decl. of B.L. Brereton at ¶ 5.

³*Id.* at ¶¶ 6-7.

⁴*Id.* at ¶ 12.

is a content-based regulation on speech; and (3) that the ordinance is overbroad.

Mr. Brereton's Amended Complaint brings a pre-enforcement, facial challenge, to a content-neutral, time-place-manner restriction on commercial speech. Each of these factors suggests that Mr. Brereton has a high hurdle to overcome in order to demonstrate standing to challenge the ordinance.

1. Standing

Mr. Brereton does not have standing to pursue this action. Mr. Brereton raises a pre-enforcement facial challenge to a regulation of commercial speech. Facial challenges necessarily involve an assertion of third-party rights since they require the court to strike down the statute at issue *in toto* rather than merely finding that the statute is unconstitutional as applied to the plaintiff. Because facial challenges necessarily sweep so broadly, the Supreme Court has noted that facial challenges are rarely successful.⁵

In the context of commercial speech, facial challenges are even more disfavored. The Supreme Court has squarely held that "the overbreadth doctrine does not apply to commercial speech."⁶ It is not clear whether the vagueness doctrine is similarly inapplicable. The Court has "traditionally viewed vagueness and overbreadth as logically related and similar doctrines."⁷ It may be the case, then, that the vagueness doctrine, like the overbreadth doctrine, simply does not

⁵*FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 223 (1990) (noting that facial challenges are generally disfavored).

⁶*Village of Hoffman Estates v. The Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 497 (1982).

⁷*Kolender v. Lawson*, 461 U.S. 352, 358 n.8 (1983).

apply to commercial speech cases. The reasons for not applying the overbreadth doctrine to commercial speech apply equally to the vagueness doctrine. Like overbroad regulations of commercial speech, a chilling effect is “less likely where the expression is linked to ‘commercial well-being’ and therefore is not easily deterred by ‘[a vague] regulation.’”⁸ Therefore, it is not clear whether a facial challenge like this one may be brought to a regulation of commercial speech.

More important, even if such a challenge could be brought, Mr. Brereton does not have standing. Pre-enforcement facial challenges raise particularly difficult standing questions. “When ‘a plaintiff has alleged an intention to engage in a course of conduct *arguably affected with a constitutional interest*, but proscribed by a statute, and there exists a credible threat of prosecution thereunder, he should not be required to await an undergo a criminal prosecution as the sole means of seeking relief.’”⁹ But the plaintiff “must demonstrate a genuine threat that the allegedly unconstitutional law is about to be enforced against him. . . . The mere existence of a statute, which may or may not ever be applied to [the plaintiff], is not sufficient to create a case or controversy within the meaning of Article III.”¹⁰

Mr. Brereton’s fear that the ordinance at issue might be applied against him in an unconstitutional manner does not create a case or controversy for Article III purposes. Mr. Brereton’s declaration states simply that he wishes “to park and/or operate the vehicle in

⁸*Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557, 565 (1980).

⁹*Stoianoff v. Montana*, 695 F.2d 1214, 1223(9th Cir. 1983) (citations omitted).

¹⁰*Id.*

Bountiful City while displaying a 'For Sale' sign in the window of the vehicle."¹¹ A plain reading of the ordinance shows that Mr. Brereton is under no threat of prosecution for the activity he describes. First, the ordinance has no application to *operating* a vehicle with a for-sale sign in the window. Mr. Brereton is free to drive the vehicle anywhere within the City while displaying a "For Sale" sign without fear of prosecution. Second, Mr. Brereton has not stated in his declaration that he wishes to park his vehicle in any of the areas identified in the ordinance. And even assuming that he does desire to park his vehicle in such a place, he has not stated that he desires to do so "for the purpose of advertising or selling the vehicle." A plain reading of the ordinance shows that Mr. Brereton is free to drive his vehicle to City Hall, for example, and park it there with a For Sale sign displayed, so long as he does not park the vehicle there "for the purpose of advertising or selling" the vehicle. The threat of prosecution might be greater if, for example, Mr. Brereton had stated that he often conducts business at City Hall which requires him to be there for several hours at a time. But Mr. Brereton's declaration does not even go this far. Instead, he has merely declared a vague desire to drive and park his vehicle in the City.

To be sure, the court can hypothesize a situation where a mistaken officer might cite a motorist who is at City Hall conducting legitimate business. But such hypotheticals do not confer standing on Mr. Brereton. Moreover, at oral argument the City proffered evidence from its prosecutor that since the ordinance was passed not one person has been cited for a violation, nonetheless mistakenly cited. In sum, Mr. Brereton has presented no evidence to this court that his desired actions would violate the ordinance, or that he is under any danger of mistaken

¹¹Decl. of B.L. Brereton at ¶ 5.

prosecution.

Mr. Brereton also brings a due process vagueness challenge. This claim, however, fails for the same reason – Mr. Brereton has not identified an injury in fact, but merely the potential, however far off, for an injury. The plaintiff therefore lacks standing to pursue his claim.

2. Merits

Even if Mr. Brereton had standing, the court would deny his motion. The statute at issue is a content-neutral restriction which is clearly designed to prevent public parking lots (and private lots without the owner's permission) from becoming used car sales lots. "In determining whether a regulation is content-neutral, 'the government's purpose is the controlling consideration.'"¹² The City's purpose here is clearly not to suppress any message or speech that it finds offensive. Mr. Brereton has not claimed otherwise.

Not only is the ordinance content-neutral, it also affects only commercial speech. "[L]aws restricting commercial speech are subject to an 'intermediate' level of scrutiny."¹³ Assuming here that the speech at issue is entitled to First Amendment protection, under intermediate scrutiny the first question is "whether the asserted government interest is substantial."¹⁴ The City certainly has a substantial interest in preventing its parking lots from becoming used car sales lots. The Supreme Court has recognized that aesthetic concerns are substantial interests.¹⁵ Beyond aesthetics, however, the City has a substantial interest in

¹²*Z-J Gifts D-2, LLC v. City of Aurora*, 136 F.3d at 886 (citations omitted).

¹³*Utah License Beverage Ass'n v. Leavitt*, 256 F.3d 1061, 1066 (10th Cir. 2001).

¹⁴*Id.* (citation omitted).

¹⁵*City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410, 416 (1993).

preserving parking spaces for patrons with business to conduct at the location.

The next question is “whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest.”¹⁶ In this case, the City has observed a problem with vehicle owners parking their vehicles in public and private parking lots, not for the purpose of conducting business at the location, but for the purpose of advertising and selling the vehicle. The ordinance was drafted specifically to address this problem. Mr. Brereton argues that the ordinance does not advance the City’s interest because, to use Mr. Brereton’s example, an Avon salesman could park her car at City Hall for the purpose of advertising Avon products. The court does not dispute Mr. Brereton’s reading of the ordinance, since it clearly applies only to attempts to advertise and sell a *vehicle*. But the City is not required to address problems it does not have. There is simply no evidence that the City is singling out persons who wish to sell their vehicle for any other purpose than that is where the problem lies.

Mr. Brereton also points the court to the Supreme Court case of *Linmark Associates, Inc. v. Township of Willingboro*,¹⁷ wherein the Supreme Court struck down a town ordinance prohibiting homeowners from posting For Sale signs in front of their homes. In *Linmark*, however, the regulation was aimed at the speech; the purpose of prohibiting the For Sale signs was to prevent interested persons from receiving the information that the home was for sale, thereby preventing “white flight” by preventing the sale of homes. The regulation at issue here is

¹⁶*Utah Licensed Beverage Ass’n*, 256 F.3d at 1066 (citation omitted).

¹⁷431 U.S. 85 (1977).

clearly not concerned with the content of speech, or even the secondary effects of speech, but with the problem of parking a vehicle for a prolonged period of time in public and private parking lots. Additionally, the ordinance at issue in *Linmark* was an attempt to control a landowner's own property. In this case, the City is attempting to control its property. The ordinance does, of course, apply to private parking lots as well. But owners of private lots retain full control of their property since they are free under the ordinance to give vehicle owners permission to use their lots for the purpose of advertising and selling their vehicle.

The plaintiff also contends that the ordinance is unconstitutionally vague because it gives no direction about when a vehicle is parked "for the purpose of advertising or of selling that vehicle." The concern raised by Mr. Brereton is one of notice. But the ordinance clearly provides adequate notice since the prohibition is focused directly on the intent of the individual. A motorist does not violate the ordinance unless he parks his vehicle in a public lot "for the purpose of advertising or selling the vehicle." This mens rea requirement "mitigate[s] against a finding of vagueness."¹⁸ The Supreme Court "has recognized that a scienter requirement may mitigate a law's vagueness, especially with respect to the adequacy of notice to the complainant that his conduct is proscribed."¹⁹ The ordinance in question gives clear notice to the motorist because it is the motorist who knows his own motivation for parking his for-sale vehicle in a public or private parking lot. There is, of course, the danger that a police officer might mistakenly believe that the vehicle is parked in the lot for advertising purposes. But that is not a

¹⁸*United States v. Evans*, 318 F.3d 1011, 1017 n.3 (10th Cir. 2003).

¹⁹*Village of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 499 (1982).

problem of vagueness, but mistaken enforcement. Criminal law frequently defines crimes with reference to an actor's purpose. The police, at first, have to infer the intent of the actor based on outward appearances. For example, the police might validly assume that a vehicle with a for-sale sign displayed parked in a public lot overnight in a manner in which it appears the owner was attempting to catch the attention of passers-by had been parked there for advertising purposes and cite the owner of the vehicle. The owner, however, would know, for example, whether the vehicle's battery had died. The mens rea requirement in the ordinance would clearly provide the vehicle's owner with notice as to whether his actions violated the ordinance.


In sum, the ordinance provides sufficient notice to the motorist that he is not allowed to park his vehicle in public or private lots for the purpose of advertising or selling it. "[A] state law is unconstitutionally vague on its face for purposes of a due process challenge only when its terms are stated in such generality that 'no standard of conduct is specified at all.'"²⁰ The ordinance clearly specifies what conduct is prohibited and what is not prohibited. That is all that is required.

CONCLUSION

Because Mr. Brereton lacks standing, this case is dismissed in its entirety for lack of Article III jurisdiction.

DATED this 16th day of February, 2005.

BY THE COURT:



Paul G. Cassell
United States District Judge

²⁰*S&S Pawn Shop, Inc. v. City of Del City*, 937 F.2d 432, 439 (1991) (citation omitted).

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00139

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 15 P 4:07
BY: DEPUTY CLERK

Homes

Plaintiff,

vs.

St Ut

Defendant.

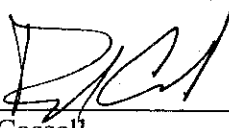
ORDER TO SHOW CAUSE

Case No. 2:04-cv-00940 PGC

Plaintiff is hereby ordered to show cause why the above captioned case should not be dismissed, with prejudice, as service of process has not been completed within 120 days pursuant to F.R.C.P.4(m). The file indicates no activity since the complaint was filed on 10/07/2004.

Plaintiff is hereby ordered to show cause why the above captioned case should not be dismissed. Plaintiff is directed to respond in writing within 15 days from the date of this order and inform the Court of the status of the case and intentions to proceed. Failure to do so will result in dismissal of the case.

Dated this 16th day of February, 2005.

By 
Paul Cassell
United States District Judge

2

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00940

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FILED
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH CENTRAL DIVISION

Callahan

Plaintiff,

vs.

Millard Cnty

Defendant.

ORDER TO SHOW CAUSE

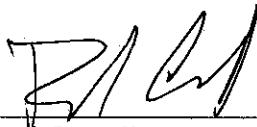
Case No. 2:04-cv-00952 PGC

Plaintiff is hereby ordered to show cause why the above captioned case should not be dismissed, with prejudice, as service of process has not been completed within 120 days pursuant to F.R.C.P.4(m). The file indicates no activity since the complaint was filed on 10/12/2004.

Plaintiff is hereby ordered to show cause why the above captioned case should not be dismissed. Plaintiff is directed to respond in writing within 15 days from the date of this order and inform the Court of the status of the case and intentions to proceed. Failure to do so will result in dismissal of the case.

Dated this 16th day of February, 2005.

By


Paul Cassell

United States District Judge

2

tsh

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00952

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

NORTHERN DIVISION

FILED

CLERK, U.S. DISTRICT COURT

February 16, 2005 (2:26pm)

DISTRICT OF UTAH

YOUNGS, et al.,

Plaintiffs,

vs.

BEHNKEN, et al.,

Defendants.

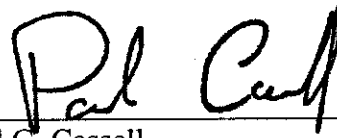
ORDER OF REFERENCE

Civil No. 1:04-CV-00183 PGC

IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(A) and the rules of this Court, the above entitled case is referred to Magistrate Judge Samuel Alba. The magistrate judge is directed to hear and determine any nondispositive pretrial matters pending before the Court.

DATED this 16th day of February, 2005.

BY THE COURT:



Paul G. Cassell
United States District Judge

19

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:04-cv-00183

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FILED
CLERK, U.S. DISTRICT COURT

2005 FEB 16 A 9:15

SIDNEY A. HAN

BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH CENTRAL DIVISION

BULLETPROOF TECHNOLOGIES, INC.,

Plaintiff,

vs.

NAVITAIRE, INC.,

Defendant.

**ORDER GRANTING IN PART AND
DENYING IN PART NAVITAIRE'S
MOTION TO COMPEL**

NAVITAIRE, INC.,

Counterclaim Plaintiff,

vs.

BULLETPROOF TECHNOLOGIES, INC.,
and
EASYJET AIRLINE COMPANY, LTD.,

Counterclaim Defendants.

Case No: 2:03cv00428 PGC

District Judge Paul G. Cassell

Magistrate Judge David Nuffer

Counterclaim Plaintiff Navitaire, Inc. ("Navitaire") has filed a Motion to Compel Production of Documents and Request for Expedited Consideration asking the court to compel Counterclaim Defendant easyJet Airline Company, Ltd. ("easyJet") "to produce certain

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documents responsive to Navitaire's First Set of Requests to easyJet for Production of Documents."¹

On June 14, 2004, Navitaire filed an answer to the complaint filed by Plaintiff Bulletproof Technologies, Inc. ("Bulletproof") and counterclaims against Bulletproof and easyJet.² On November 19, 2004, easyJet filed a motion to dismiss Navitaire's counterclaims for lack of jurisdiction.³ The parties subsequently stipulated to a briefing schedule⁴ regarding easyJet's motion that required easyJet to respond to Navitaire's First Set of Requests to easyJet for Production of Documents ("Document Requests")⁵ by January 24, 2005 and provided that depositions regarding jurisdiction would be held between February 14 and 18, 2005.

On January 24, 2005, easyJet served its responses and objections to Navitaire's Document Requests.⁶ Navitaire claims that easyJet has not adequately responded to Document Requests Nos. 2, 5, 6, 10 and 11.⁷ Despite reasonable attempts to resolve these issues,⁸ the parties were unable to reach an agreement prompting Navitaire's present motion.

¹ Docket no. 90, filed February 4, 2005.

² Docket no. 40, filed June 14, 2004.

³ Docket no. 69, filed November 19, 2004.

⁴ Docket no. 86, filed December 23, 2004.

⁵ Exhibit A to the Declaration of Harrison J. Frahn In Support Of Motion To Compel Production Of Documents ("Frahn Declaration"), docket no. 92, filed February 4, 2005.

⁶ Exhibit D to Frahn Declaration.

⁷ Memorandum in Support of Navitaire's Motion to Compel ("Navitaire's Memorandum"), docket no. 91, filed February 4, 2005, pages 1-2.

⁸ Frahn Declaration and Exhibit E attached thereto.

Navitaire's Document Request No. 2 seeks agreements between easyJet and any United States company,⁹ including the contracts Neil Raymond Mills referred to in his November 19, 2004 Affidavit:¹⁰ Boeing, Honeywell Aerospace, CIT Group, ILFC, Babcock and Brown, Rockwell Collins, and Weber Aircraft. easyJet contends that it has agreed to produce all non-privileged contracts between easyJet Airline Company, Ltd, and United States businesses (including contracts with CIT Group and ILFC), but it refuses to produce the contracts with Boeing, Honeywell Aerospace, Babcock and Brown, Rockwell Collins and Weber Aircraft identified by Mr. Mills because easyJet contends they were executed by a separate corporate entity, easyJet PLC, a holding company.¹¹

Navitaire's Document Request No. 5 asks for documents sufficient to show the number and percentage of easyJet sales and revenue from the United States and Utah.¹² easyJet has offered to produce printouts of representative searches of its database reflecting one day of sales data in which the customer listed a contact address in the U.S. or Utah (broken down by total sales, U.S. sales, and Utah sales) for each quarter going back five years.¹³

Navitaire's Document Request No. 6 requests documents sufficient to show the number

⁹ Exhibit A to Frahn Declaration, page 6.

¹⁰ Navitaire Memorandum, page 3.

¹¹ Memorandum in Support of easyJet's Opposition to Motion to Compel ("easyJet's Memorandum"), docket no. 101, filed February 9, 2005, page 5.

¹² Exhibit A to Frahn Declaration, page 7.

¹³ easyJet's Memorandum, pages 6-7.

and percentage of "hits" originating in the United States and Utah of any easyJet website, and the number and percentage of "screenviews" of any of easyJet's websites' individual webpages by computer users in the United States and Utah.¹⁴ As part of this motion, Navitaire narrows its request to seek documents that support easyJet's contention in paragraph 3 of the Michael Cooper Affidavit that "most of the traffic through easyJet.com from the United States comes indirectly, through third-party search engines such as Yahoo! or Google."¹⁵ easyJet maintained at the hearing that it has no documents in its possession, custody or control that reflect the requested information, under either Request No. 6 as it was originally phrased or as narrowed.¹⁶

Navitaire's Document Requests Nos. 10 and 11 seek documents between easyJet and BulletProof regarding legal proceedings, indemnification, and the payment or reimbursement by easyJet of Bulletproof's fees or expenses.¹⁷ easyJet argues that there is no agreement by which easyJet is responsible to indemnify BulletProof for its legal fees and costs, and that all documents responsive to these requests, such as bills, invoices, canceled checks and the like, are protected by the attorney-client privilege or attorney work product doctrine.¹⁸

¹⁴ Exhibit A to Frahn Declaration, page 7.

¹⁵ Docket No. 74, filed November 19, 2004; Navitaire's Memorandum, page 6.

¹⁶ easyJet's Memorandum, pages 8-9.

¹⁷ Exhibit A to Frahn Declaration, page 8.

¹⁸ easyJet Memorandum, pages 9-10.

After considering Navitaire's request for expedited consideration and easyJet's opposition to the motion for expedited consideration,¹⁹ the Court ordered easyJet to file any opposition to Navitaire's motion to compel by February 9, 2005 and set a hearing on the motion for February 10, 2005.²⁰ Navitaire's motion to compel came on for hearing at 2:30 p.m. on February 10, 2005, with Harrison J. Frahn IV, Esq. and Mark E. Hindley, Esq. appearing on behalf of Navitaire and Claude M. Stern, Esq. and Rachel M. Herrick, Esq. appearing on behalf of easyJet. Having considered the parties' written submissions, counsels' argument, the pleadings on file, and the law, and good cause appearing:

ORDER

IT IS HEREBY ORDERED that Navitaire's Motion to Compel Production of Documents and Request for Expedited Consideration²¹ is GRANTED as to Document Request No. 2. easyJet shall produce, as soon as possible and in any event no later than February 16, 2004, all contracts with the parties listed in paragraph 4 of Neil Raymond Mills's November 19, 2004 Affidavit, including in particular those between easyJet PLC and Boeing, Honeywell Aerospace, Babcock and Brown, Rockwell Collins and Weber Aircraft.²²

¹⁹ Docket no. 96, filed February 7, 2005.

²⁰ Docket no. 93, filed February 7, 2005.

²¹ Docket no. 90, filed February 4, 2005.

²² Docket no. 73, filed November 19, 2004.

IT IS FURTHER ORDERED that Navitaire's Motion to Compel Production of Documents and Request for Expedited Consideration²³ is GRANTED in part and DENIED in part as to Document Request No. 5. easyJet shall produce, as soon as possible and in any event no later than February 16, 2004, a report similar in form to Exhibit A to the February 9, 2005 Affidavit of Patrick C. Doolittle (filed under seal), showing easyJet's total revenues, its revenues from the United States, and its revenues from the state of Utah, for each of the following twelve dates (which were selected by Navitaire) , April 17 and 24, May 8 and 22, June 5 and 19, July 10, October 16 and 23, November 6 and 20, and December 4, for each year from 2000-2004.

IT IS FURTHER ORDERED that Navitaire's Motion to Compel Production of Documents and Request for Expedited Consideration²⁴ is DENIED as moot as to Document Request No. 6, based upon the representation by easyJet's counsel that easyJet possesses no documents that support, contradict or relate to any factual basis for the origin of the website traffic from the United States as described by Michael Cooper in his November 19, 2004 Affidavit²⁵ that "most of the traffic through easyJet.com from the United States comes indirectly, through third-party search engines such as Yahoo! or Google."

²³ Docket no. 90, filed February 4, 2005.

²⁴ *Id.*

²⁵ Docket no. 74, filed November 19, 2004.

IT IS FURTHER ORDERED that Navitaire's Motion to Compel Production of Documents and Request for Expedited Consideration²⁶ is GRANTED in part and DENIED in part as to Document Requests Nos. 10 and 11. easyJet shall satisfy this request by producing as soon as possible and in any event no later than February 16, document(s) sufficient to show the matter or matters for which easyJet has paid legal fees and costs of BulletProof's United States Counsel, and for each such matter, it shall identify on a monthly basis, the amount billed for work performed on behalf of Bulletproof, and the amount paid by easyJet on Bulletproof's behalf.

February 15, 2005.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'David Nuffer', written over a horizontal line.

David Nuffer
U.S. Magistrate Judge

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-cv-00428

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2005 FEB 17 P 2:27

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DISTRICT OF UTAH 2005 FEB 16 P 5:29

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DISTRICT OF UTAH

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Attorneys for Stericycle, Inc.

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

ORDER

MDL-1546 IN RE: MEDICAL WASTE
SERVICES ANTITRUST LITIGATION

This Document Relates to:

Sorensen v. Stericycle, Case No.
2:03CV-0179ST (Utah)

*Comprehensive Addiction Treatment
Services, Inc. v. Stericycle*, Case No.
2:03CV00784DAK (transferred from
District of Colorado, Case No.
1:03CV493)

STIPULATION AND ~~PROPOSED~~ ORDER
REGARDING EXPERT DISCOVERY

Case No. 2:03MD1546DAK

Honorable Dale A. Kimball

Magistrate Samuel Alba

152

Haas, DPM v. Stericycle, Case No.
2:03CV00795DAK (transferred from
District of New Mexico, Case No.
1:03CV440)

Inter-Care Medical Assoc. v. Stericycle,
Case No. 2:03CV00886DAK
(transferred from District of Arizona,
Case No. 2:03CV00161)

Arizona Eye Center v. Stericycle, Case
No. 2:03CV00887DAK (transferred
from District of Arizona, Case No.
2:03CV00611)

David M. Stoll, M.D. v. Stericycle, Inc.,
Case No. 2:03CV00968TS (Utah)

COUNSEL FOR THE PARTIES HEREBY STIPULATE AS FOLLOWS:

1. In order to avoid consuming the parties' and the Court's time and resources on potential discovery issues relating to experts, the parties have agreed to certain limitations on the scope of expert-related discovery and testimony in this matter. Neither the terms of this Stipulation nor the parties' agreement to them implies that any of the information restricted from discovery in this Stipulation would otherwise be discoverable.

2. The parties will make all disclosures required by Rule 26(a)(2)(B), as modified or limited by this Stipulation, at the times provided by this Court for the service of written expert reports. The parties will supplement such disclosures at least five (5) business days before an expert's deposition. To the extent that the disclosures include exhibits, information or data

processed or modeled by computer at the direction of a disclosed expert in the course of forming the expert's opinions, machine readable copies of the data (including all input and output files) along with the appropriate computer programs, instructions, and field descriptions shall be produced consistent with this Stipulation. If data employed by experts are derived from electronic data provided by any party to this action, that original data, in machine readable format, shall be produced, together with appropriate computer programs, instructions, and field descriptions necessary to access and use the data. No party need produce computer programs that are reasonably and readily commercially available. All electronic data, together with programs, instructions, field descriptions and work product shall be produced within three (3) days of the issuance of the expert's report or affidavit and shall be hand delivered, electronically transmitted or overnight expressed to opposing counsel or to a person at the direction of opposing counsel. All other documents required to be produced shall be made available for inspection and copying within three (3) days from issuance of the expert's report or affidavit.

3. The following categories of data, information, or documents need not be disclosed by any party, and are outside the scope of permissible discovery (including deposition questions):

a. Any notes or other writings taken or prepared by or for an expert witness in connection with this matter including, but not limited to, correspondence or memos to or from, and notes of conversations with, the expert's assistants and/or clerical or support staff, other expert witnesses or non-testifying expert consultants, or attorneys for the party offering the testimony of such expert witness, unless the expert witness is relying

upon those notes or other writings in connection with the expert witness' opinions in this matter;

b. Draft reports, draft studies, or draft work papers; preliminary or intermediate calculations, computations, or data runs; or other preliminary, intermediate or draft materials prepared by, for or at the direction of an expert witness, but any documents or data relied on by the expert shall be subject to discovery and shall be produced; and

c. Any oral or written communication between an expert witness and the expert's assistants and/or clerical or support staff, other expert witnesses or non-testifying expert consultants, or attorneys for the party offering the testimony of such expert witness, unless the expert witness is relying upon the communication in connection with the expert witness' opinions in this matter.

4. In addition to the limitations on discovery set forth in paragraph 3, above, the parties agree that other data or information that may have been considered by an expert but was not relied on by the expert in forming her or his opinions need not be disclosed or produced. Nothing in paragraphs 3 or 4, however, shall be construed to prevent substantive deposition questions with respect to any data or other non-privileged information that may be relevant to the substance of the expert's opinions (including alternative theories, methodologies, variables, or assumptions that the expert may have considered in formulating her or his opinions or in preparing her or his report).

5. No subpoenas for deposition or other documents need be served on any testifying expert from whom a report is provided. Instead, the party retaining the expert shall make the

expert available for deposition, at a time mutually agreed to by the parties, but in no event later than twenty (20) days after the issuance of the expert report.

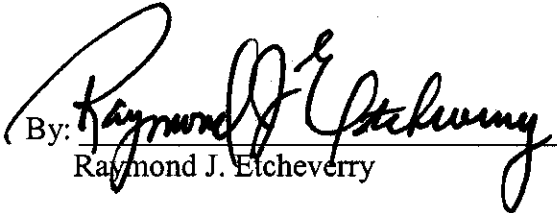
6. This Stipulation should not be construed to preclude reasonable questions at deposition going to the expert's compensation, hours expended in preparing his or her report and testimony, and frequency and duration of meetings with counsel regarding his or her report.

7. to the extent that the specific stipulations agreed to herein waive disclosure requirements under Fed. R. Civ. P. 26(a)(2)(B) or (C), the Parties agree to such waiver.

8. The Parties agree to comply with this Stipulation and Order pending the Court's approval and entry of this order.

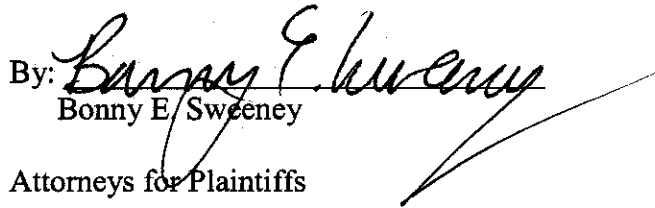
DATED this 16TH day of February, 2005.

PARSONS BEHLE & LATIMER

By: 
Raymond J. Etcheverry

Attorneys for Defendant Stericycle, Inc.

LERACH COUGHLIN STOIA GELLER
RUDMAN & ROBBINS, LLP

By: 
Bonny E. Sweeney

Attorneys for Plaintiffs

IT IS SO ORDERED this 17th day of February, 2005.

HONORABLE DALE A. KIMBALL


United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of February, 2005, I caused to be served, by facsimile and United States mail, first-class postage prepaid, a true and correct copy of the foregoing **STIPULATION AND [PROPOSED] ORDER REGARDING EXPERT DISCOVERY** to the following parties of record:

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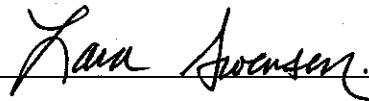
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A handwritten signature in cursive script, appearing to read "Kara Swenson", is written over a horizontal line.

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:03-md-01546

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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FILED
CLERK, U.S. DISTRICT COURT
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2005 FEB 17 P 2:27
FEB 18 2005
DISTRICT OF UTAH
U.S. DISTRICT COURT
BY: _____
DEPUTY CLERK

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Telephone: (801) 524-1000

Attorneys for Receiver, Robert G. Wing

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION

ROBERT G. WING, Receiver for
4NExchange, L.L.C.,

Plaintiff,

v.

JEFFREY S. YAGER,

Defendant.

ORDER OF DISMISSAL WITH
PREJUDICE

Case No. 1:03cv00054
Judge: Dale A. Kimball

Based on the Stipulation and Joint Motion to Approve Settlement executed by the parties and the defendant's compliance with the terms thereof, including the payment of \$60,000.00 to the Receiver, and good cause appearing, it is hereby

ORDERED that this case be dismissed with prejudice.

DATED this 17th day of February, 2005.

BY THE COURT:


HONORABLE DALE A. KIMBALL
United States District Court Judge

MAILING CERTIFICATE

I hereby certify that on the 15 day of February, 2005, I caused a true and correct copy of the foregoing **ORDER OF DISMISSAL WITH PREJUDICE** to be mailed, first-class postage prepaid thereon, to the following:

Thomas M. Melton
Attorney for Securities & Exchange Commission
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Bernard J. Barrett
Jay M. Miller
Attorney for Commodity Futures Trading Commission
Three Lafayette Center
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Washington, D.C. 20581

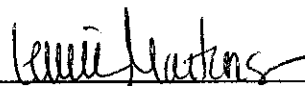
Jeffrey Buckner
Utah Attorney General
Commercial Enforcement Division
160 East 300 South, 5th Floor
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Salt Lake City, Utah 84114-0872

Ronald K. Bassett
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Lindon, Utah 84042

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& GELDZAHLER**
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175 East 400 South
Salt Lake City
Utah 84111
(801) 524-1000



United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 1:03-cv-00054

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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STEVEN B. KILLPACK, Federal Defender (#1808)
ROBERT K. HUNT, Assistant Federal Defender (#5722)
UTAH FEDERAL DEFENDER OFFICE
Attorney for Defendant
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Telephone: (801) 524-4010
Facsimile: (801) 524-4060

FILED
CLERK, U.S. DISTRICT COURT
2005 FEB 17 P 2:26

RECEIVED CLERK DISTRICT OF UTAH

FEB 17 2005 BY: _____
DEPUTY CLERK

U.S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MIGUEL ZAVALA,

Defendant.

**ORDER TO CONTINUE
JURY TRIAL**

Case No. 2:04CR00110 DAK

Based on the motion to continue trial filed by defendant in the above-entitled case, and good cause appearing;

It is hereby ORDERED that the trial previously scheduled for February 23, 2005, is hereby continued to this 26th day of May, 2005, at 8:30 a.m. Pursuant to 18 U.S.C. § 3161(h), the Court finds the ends of justice served by such a continuance outweigh the best interests of the public and the defendant in a speedy trial. Accordingly, the time between the date of this order and the new trial date is excluded from speedy trial computation.

Dated this 17th day of February, 2005.

BY THE COURT:


HONORABLE DALE A. KIMBALL
United States District Court Judge

46

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cr-00110

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ATTORNEY FOR PLAINTIFF

FILED
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2005 FEB 17 P 4:19
DISTRICT OF UTAH
BY.

CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JAMES C. ADAMS,

PLAINTIFF

VS.

SKYWEST AIRLINES,

DEFENDANTS.

:
:
: **DEFAULT CERTIFICATE**
:
:
:

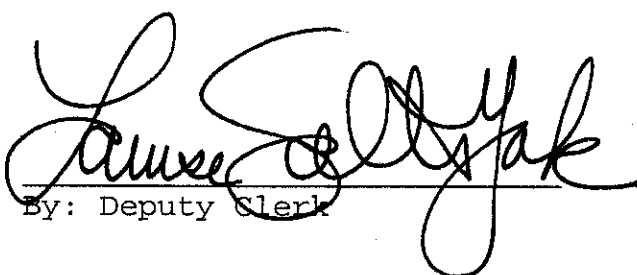
: CASE No. 2:04-CV-870 PGC
:
:
:

: JUDGE PAUL G. CASSELL
:
:
:

In this action, the Defendant, SkyWest Airlines, having been regularly served with the summons and complaint in the above-entitled action on November 23, 2004, and having failed to appear and answer the complaint in the time provided by law, the default of the defendant is entered pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

DATED this 17th day of February, 2005.

MARKUS B. ZIMMER


By: Deputy Clerk

5

United States District Court
for the
District of Utah
February 17, 2005

* * CERTIFICATE OF SERVICE OF CLERK * *

Re: 2:04-cv-00870

True and correct copies of the attached were either mailed, faxed or e-mailed by the clerk to the following:

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ST GEORGE, UT 84790
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Dale T. Hansen
PARR WADDOUNS BROWN GEE & LOVELESS
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